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The EIA system of the Republic of Djibouti

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Abstract

The Environmental Impact Assessment (EIA) is an internationally recognized reference tool that assesses the environmental and social impacts of a project at the planning stage. It includes a detailed analysis of potential effects on the physical, biological, and human environment. The Republic of Djibouti introduced the EIA system in 2001, and the regulation was amended in 2011. This paper provides an overview of Djibouti's EIA system, including its legal framework, implementing authorities, and challenges.

1. Introduction

The environmental impact assessment (EIA) is a crucial planning tool that helps predict and evaluate the impact of proposed projects, with the main goal of aiding decision-making processes. NEPA's pioneering initiative has had a significant influence worldwide, inspiring many countries to adopt EIA policies into their national regulations (Glasson et al., 1999). For example, in East Africa, countries such as Kenya, Ethiopia, and Djibouti have implemented environmental impact assessment policies by adopting national regulatory frameworks. In 1999, Kenya introduced the Environmental Management and Coordination Act, while Ethiopia introduced the Environmental Impact Assessment Proclamation No. 299 of 2002. Djibouti followed with Decree No. 2001-0011/PR/MHUEAT, which defined the environmental impact assessment procedure. This was updated and detailed in 2011 with Decree No. 2011-029/PR/MHUAT. However, it is important to note that these countries do not implement EIA regulations in the same way, as each country's policy and regulatory framework is unique to their national strategies and priorities.

This paper aims to describe and analyze the EIA system of Djibouti and make recommendations for its future.

2. Background

The Republic of Djibouti is positioned in the Horn of Africa at the mouth of the Bab El Mandeb Strait, which separates the Red Sea from the Indian Ocean. The country shares borders with Ethiopia to the West and South, Eritrea to the north, Somalia to the southeast, and Yemen to the east. Due to its strategic location on the eastern coast of Africa, at the southern outlet of the Red Sea, between the Suez Canal and the Gulf of Aden, the region holds immense importance. Thirty percent of global trade and 20,000 ships travel use this strategically crucial maritime location annually (Bereketeab, 2016).

The development of multiple foreign military bases, including those of France, the USA, China, Japan, and Italy, has confirmed Djibouti's strategic importance considering the recurrence of conflicts in the Middle East and in the Horn of Africa. Djibouti is presently being positioned as a

regional hub for trade and logistics and currently has seven commercial ports, as opposed to one during the colonial era (before 1977). Due to the huge boost from these recent developments, Djibouti's economy has grown and developed during the past ten years.

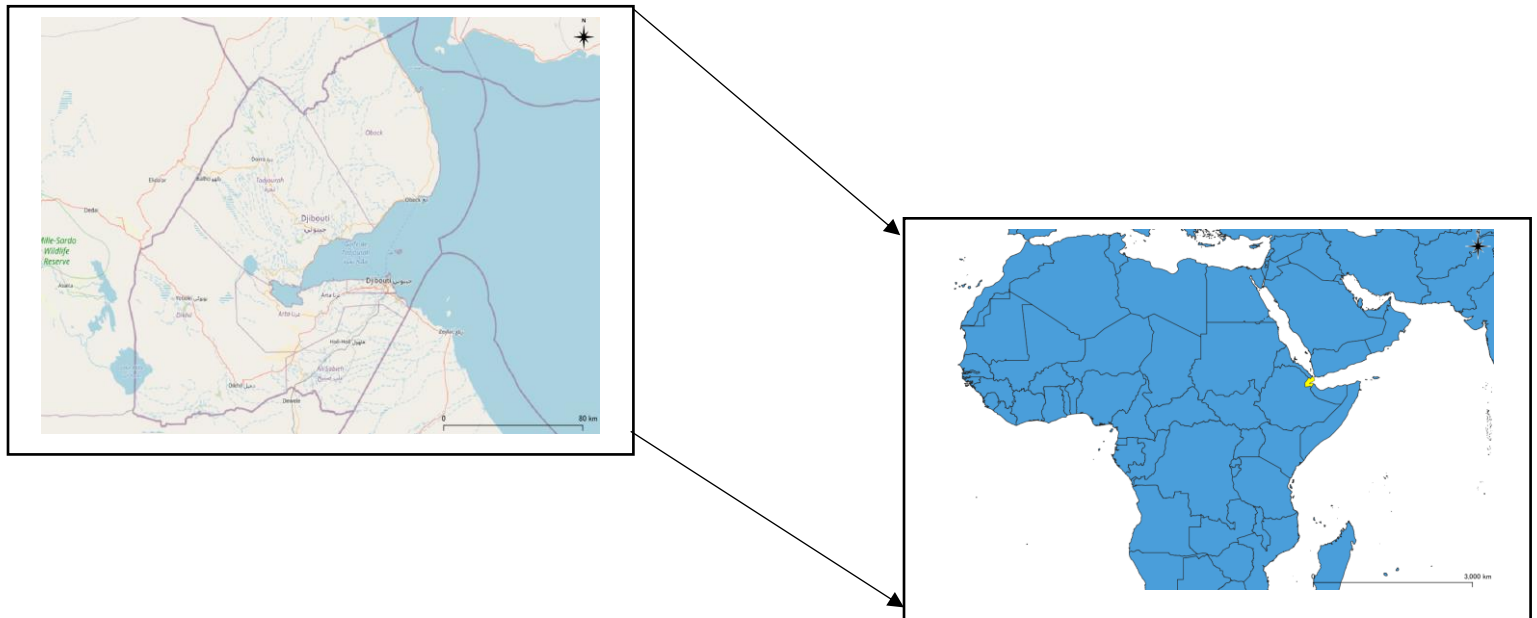


Figure 1: Geographic location of Djibouti

3. Legal framework

3.1. The Constitution of Djibouti

The Constitution of Djibouti was adopted on September 4, 1992, through a referendum. It has been subsequently amended in 2006, 2008, and 2010. Article 10 of the Constitution enumerates several fundamental human rights, including the rights to life, liberty, security, and personal integrity. It also emphasizes that the "*human person is sacred*" and should be protected. Article 70 stipulates that ratified international agreements and treaties hold superior legal force over secondary legislation. However, the Constitution of Djibouti does not contain specific provisions for environmental protection.

3.2. International agreement related to the Environment.

An international environmental agreement is a legally binding accord between multiple nations aimed at promoting international collaboration in resolving global environmental issues. These agreements seek to unite nations in a coordinated effort to address global environmental challenges that necessitate coordinated actions, such as pollution, deforestation, biodiversity loss, and climate change (Mitchell, 2003). However, weak enforcement mechanisms and effective implementation of environmental treaties are often lacking in developing nations (Shihata, 1997; Brock, 2006).

The Republic of Djibouti, like many other nations worldwide, recognizes the importance of environmental preservation. To demonstrate its commitment to preserving the environment and promoting sustainable development and growth, the country has ratified and adhered to numerous international agreements.

Table 1: Examples of major international conventions on the environment and their corresponding ratification laws

Conventions	Ratification Laws	Conventions	Ratification laws
United Nations Framework Convention on Climate Change, UNFCCC (Rio 1992)	Law No 87/AN/95/3ème L	Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto 1997)	Law No 148/AN/01/4ème L
Convention on Ecological Diversity (Rio 1992)	Law No 113/AN/96/3ème	Rotterdam Convention for Hazardous Chemicals and Pesticides in International Trade (Rotterdam, 1998)	Law No 48/AN/04/5ème L
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel 1989)	Law No 127/AN/01/4ème L	The Stockholm Convention on Persistent Organic Pollutants (Stockholm, 2001)	Law No 39/AN/03/5ème L

3.3.The Environmental Code (Law No. 51/AN/09/6ème L)

In order to achieve sustainable development in compliance with multilateral environmental agreements, the legislation strives to establish the fundamental principles and basic regulations of the national policy for the conservation and management of the environment. Implementing environmental evaluation and planning is one of the goals of environmental management and protection for sustainable development, as stated in Article 4 of this law. Another goal is to prevent and anticipate any action that could have substantial negative effects. Moreover, to ensure sustainable and fair development, it also protects the environment from all types of pollution and deterioration, regardless of the source.

The law defines the environmental impact assessment in Article 1 as “*all studies prior to the realization of project development, work, equipment, installation, or establishment of an industrial or agricultural unit or other, of a plan or program, allowing to assess the direct and/or indirect consequences of investment to environmental resources and health*”. Article 37 specifies that all surface, marine, subsurface, or air installations causing an impact on the environment must be subject to an environmental impact assessment. Article 99 mentions that an EIA is mandatory for all projects causing adverse effects on the environment and health. Article 97 specifies that the State guarantees the integration of environmental evaluation at all levels of development. Article 99 also mentions that the Ministry of the Environment is in charge of delivering an environmental authorization, and Article 100 emphasizes the necessity to communicate probable

negative impacts to the people. Article 101 describes the minimum requirements for EIA reports, including:

- » Analysis of the initial state of the site and its environment,
- » Description of the project,
- » Study of the modifications that the project is likely to generate, and the measures envisaged to eliminate, reduce, or compensate for the negative impacts of the activity on the environment and health,
- » The cost of these measures before, during, and after the project realization,
- » Implementation of an environmental management plan,
- » And public hearing.

Furthermore, the law includes articles related to the protection and preservation of water resources (Articles 19-26), soil and subsoil (Articles 27-31), waste management (Articles 75-88), plant and animal resources (Articles 39-41), environmental evaluation (Articles 97-102), and administrative and penal sanctions (Articles 103-140). It is important to note that the law specifies the penalties and measures that can be taken in case of violations. The Ministry is in charge of enforcing the law (103-105) and can seize and confiscate equipment, goods, products related to the violation, and profits generated from the violation. Additionally, the Ministry can order the restoration of degraded sites.

3.4. The decree on the environmental evaluation (Decree No 2011-029/PR/MHUEAT)

The decree on environmental evaluation was firstly adopted in 2001 and amended in 2011, serving as the primary legal document explaining the EIA system of Djibouti. The decree defines EIA in Article 1 as *“any prior scientific study carried out before the implementation of a development project, infrastructure, equipment, installation, or establishment of an industrial, agricultural, or other unit, plan, or program, allowing the assessment of the direct and/or indirect consequences of the investment on environmental resources and health”*.

The decree elaborates in Article 3 that all activities susceptible to generating negative impacts and public service activities must undergo the realization of EIA reports in the early stage of activities and feasibility studies. Additionally, Article 4 explains that there are two types of EIA statements (a short and a detailed one) depending on the scale of the project and negative impacts. The Ministry of Environment is in charge of the screening process and the attribution of an environmental authorization. The authorization permit is valid for five years and can be renewed after the realization of an environmental audit (Article 6). EIA statements should be written in French language, and those written in another language should be translated into French language by professional translators.

Table 2: Description of the content of a short and a detailed EIA report (Article 11)

Content of a short EIA statement	Content of a detailed EIA statement
<ul style="list-style-type: none"> » Description of the local and regional environment, » Project description, » Analysis of alternatives, » Verification of project compliance with applicable policies, laws, regulations, and standards, including ratified international conventions, » Inventory and description of project impacts on the environment, » And, envisaged mitigation measures. 	<ul style="list-style-type: none"> » Non-technical summary, » Detailed description of project activities and the justification of the project, » The exploration and analysis of alternatives, » The analysis of the initial state of the site including the natural environment, socio-economic and human characteristics, » Analysis of impacts including direct, indirect, temporary, permanent, and cumulative impacts on the environment and society in general, » Verification of project compliance with applicable policies, laws, regulations, and standards, including ratified international conventions, » Public participation and stakeholder engagement activities and meetings, » Analysis of mitigation, attenuation, repair and compensation measures, » Estimation of residual impacts, » Financial estimate of induced environmental cost, » And an environmental and social management plan with a detailed budget.

The decree emphasizes the importance of public participation and stakeholder engagement during the realization of EIA statements (Articles 15-17). Project promoters are required to hold public consultations in accordance with the Ministry and submit a plan of consultation meetings to the authorities and local community representatives at least 10 days prior (Article 16). Signed minutes of consultation meetings and the memorandum of these meetings should be added to the EIA report and made publicly available to local communities (Article 21). Upon completion of the report, the Ministry will gather public opinions about the project through a public inquiry (Articles 22-25). Additionally, a public workshop or audience will be organized by the promoter and representatives from the Ministry to gather opinions about the EIA report and the project, and an ad-hoc commission will be appointed to evaluate the concerns of the participants (Article 27).

4. Implementing authorities

4.1. The Ministry of Environment and Sustainable Development (MEDD)

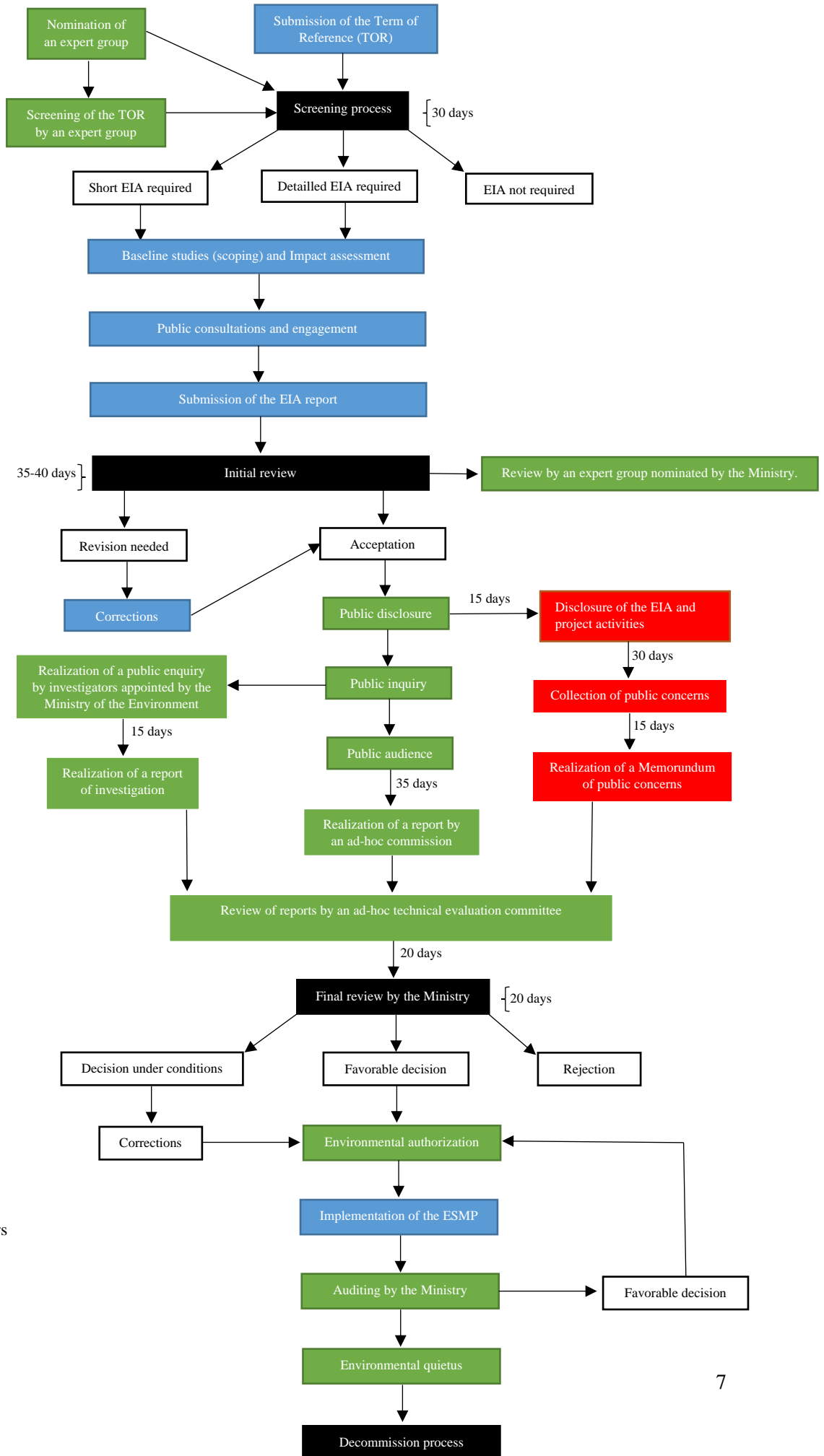
The Ministry of Habitat, Urbanism, Environment, and Territory Planning (MHUEAT), sometimes known as the Ministry for the Environment, was founded in 2000 by Law No. 82/AN/00/4ème L.

To encourage balanced and harmonious territorial development, the Minister is responsible for developing and implementing policies in the areas of housing, urban planning, and the environment. In 2014 (Law No. 54/AN/14/7ème L) and 2022 (Law No. 154/AN/22/8ème L), the Ministry was reorganized. The Ministry of Environment and Sustainable Development (MEDD) is the organization's current name, and its duties include creating and enforcing national regulations on biodiversity, coordinating national programs for environmental protection, writing regulatory texts on pollution control, protecting natural areas and wildlife, and developing and enforcing government policies on the environment and sustainable development. Additionally, MEDD collaborates with relevant ministries and local authorities to achieve the country's sustainable development goals. The MEDD is organized into several departments, including the Minister's Cabinet, the General Secretariat, the Directorate of the Environment, the Directorate of Sustainable Development, the Directorate of Communication, Planning, Monitoring, and Evaluation, and Archives, and the Administrative and Financial Directorate.

4.2. The Directorate of the Environment (DE)

The Ministry of Environment and Sustainable Development (MEDD) was reorganized in 2022, creating the Directorate of Environment. It had previously existed as the Directorate of Environment and Sustainable Development (DEDD) in 2014 and the Directorate of Territory Planning and Environment (DATE) in 2000. The government's environmental policies are developed and carried out by the Directorate of Environment. Its responsibilities include working in coordination with other relevant ministries to advance government action on environmental management, safeguard natural resources, and stop pollution and environmental harm. Additionally, the Directorate enhances living standards in both urban and rural regions, monitors environmental conditions, and conducts impact assessments. Additionally, it integrates environmental considerations into development programs and implements projects that support environmental protection. The Directorate collaborates with NGOs, national associations, and local communities to encourage environmental cooperation. The Directorate of Environment is composed of four sub-directorates:

- » The sub-directorate for combating climate change,
- » The sub-directorate for ecology and nature protection,
- » The sub-directorate for pollution and environmental evaluation,
- » And the sub-directorate for the Great Green Wall and reforestation.



Legend

- MEDD/DE
- Local authorities
- Project developers
- Process

Figure 2: Detailed flowchart of the EIA system of Djibouti

5. Main challenges

5.1. The Cost and the timeline of the EIA system

The EIA process in Djibouti is time-consuming and costly, particularly for small and medium-sized industries and public companies. According to the schedule outlined in the Decree on Environmental Evaluation, the EIA procedure may take six months or longer depending on the size and complexity of the project. Additionally, any adjustments or delays requested by the Ministry during the evaluation process may result in further delays and expense increases for project proponents. The extended EIA process can have a negative impact on project development by discouraging foreign investors and local businesses from seeking opportunities in less bureaucratic environments and investing in other nations. As a result, projects that are essential to Djibouti's socioeconomic development may not be implemented as quickly as they should. Furthermore, a lack of financial resources and the expensive expenses associated with EIA studies may deter international investors from investing in Djibouti.

5.2. Centralized EIA process

The Ministry of Environment and Sustainable Development (MEDD) oversees the conduct and approval of all EIA applications in Djibouti. However, because the MEDD might not have the capacity to handle all the applications in a timely manner, this centralized approach might cause delays and inefficiencies in the process. Furthermore, a centralized EIA system can limit the MEDD's awareness of local conditions and community concerns, resulting in insufficient assessment of a project's social and environmental impacts.

A centralized EIA system may also result in conflicts of interest because the MEDD is a government agency tasked with fostering socioeconomic growth while safeguarding the environment. As a result, project and EIA assessments may be inaccurate or prejudiced. This can lead to conflicts between the government's economic growth goals and projects and the need to safeguard the environment. Furthermore, the negative implications of a centralized EIA system can impede sustainable development in Djibouti by reducing the effectiveness of environmental evaluations and the protection of local communities and ecosystems.

5.3. Human resources

The shortage of skilled human resources in EIA is a major concern, especially given the growing number of development projects in Djibouti. The Decree on Environmental Evaluation requires the involvement of consultants, experts, and local investigators to evaluate EIA reports. However, the shortage of human resources can also cause delays in the EIA process and incomplete or inadequate assessments of EIA reports. Furthermore, the shortage of skilled personnel may limit the MEDD's ability to conduct effective monitoring and auditing of projects, which is crucial to ensure compliance with environmental regulations and the mitigation of potential negative impacts on the environment and local communities.

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5.5. Gaps with other international best practices

The EIA system in Djibouti has significant gaps compared to international best practices of international finance institutions such as the World Bank, African Development Bank (AfDB), and International Finance Corporation (IFC). For instance, the current system lacks clear guidance on stakeholder engagement during and after the implementation of the project, social impact assessment, cumulative and residual impact assessment, and gender issues. Furthermore, the system is quite outdated compared to the new environmental and social framework of the World Bank.

6. Conclusion

The EIA system of Djibouti aims to provide clear guidance for developers to protect the environment and society from the negative impacts of projects. It involves project promoters, governmental agencies, and local authorities. The recently renamed Directorate of Environment is responsible for analyzing EIA reports and conducting EIAs for governmental projects and policies. The system encourages project promoters to engage in public participation activities and makes public acceptance of projects an important component of the EIA process. However, the system faces several challenges, such as the cost of the EIA process, which makes it difficult for small and medium enterprises (SMEs) to submit EIA reports. The centralized system can also lead to biases in favor of governmental projects, and there is a heavy reliance on consultants that can be challenging.

❖ Recommendations:

- (1) Creation of an Online Database:** Establishing an online database of EIA reports would be effective in conserving and communicating EIA reports for the long term. Stakeholders would have internet access to the reports and may consult them as initiatives are being implemented. However, it's crucial to keep in mind that a sizable database will require organization, storage, and upkeep. Implementing a data retention policy that outlines the goals of retention, the kinds of data to be stored, compliance with ethical standards, privacy protection, and the length of retention is crucial before building this database. A database can be created using a variety of methods, including HDDs, SSDs, tapes, and cloud storage.
- (2) Conducting a Gap Analysis:** Before amending the decree on environmental evaluation (lastly amended in 2011), conducting a gap analysis will improve the quality of the current EIA system and identify major gaps with international development

organizations' EIA or ESIA systems. It will also save time in the analysis of EIA reports by reducing misunderstandings and the need for further gap analysis reports on EIA reports of development projects.

- (3) Decentralizing the EIA System:** Decentralizing the EIA system will facilitate the communication of EIA reports, follow-up, and auditing activities. It will also promote the understanding of EIA among regional administrations and make the implementation of public participation activities easier. Regional administrations have a better understanding of the situation in their respective regions and are better suited to implement monitoring and auditing activities. Moreover, it will help in sharing knowledge and skills about EIA practices.
- (4) Training of EIA Experts:** Training regional and national-level EIA experts will reduce the time and resources required to assess EIA reports as it would eliminate the need to recruit consultants. Furthermore, reducing the cost and the time will promote the adoption of EIA by SMEs.

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