

### Public participation and the availability of information:

- (a) Require EPA to make available on its website and its offices both hard and soft copies of the application for the environmental permit, screening reports, preliminary environmental reports, scoping opinions, EIA statements, the review opinion, the client's environmental management plan, the annual environmental report and minutes and recommendations from a public hearing to the public to enhance transparency, public scrutiny, access to information and ultimately decision making.
- (b) Specify that notice of an application and notice for a public hearing should be broadcasted at least on local radio stations or through a town crier in languages that inhabitants of the land can understand.
- (c) Include provisions that specify requirement for a notice of a public hearing and a minimum notice period before such a hearing.
- (d) Instead of a vague "adverse reactions" triggering a public hearing, specify an objective criterion such as: a petition signed by at least 100 citizens should suffice for the EPA to hold a public hearing in respect of an application for an environmental permit or in the alternative, make public consultation a compulsory part of all EA process.

### Cumulative impacts

- (a) The law should be amended to require an EIA for agricultural undertakings using prescribed criteria which takes into account cumulative, induced and indirect impacts, considerations of climate change mitigation, the likely pollution of soil or water from chemicals, removal of trees and degradation of habitats, including protected species, degradation of soil, introduction of invasive species and considerations of the intensity of the activity of the land cleared for agriculture.

- (b) Incorporate investigations on the cumulative impacts of similar undertakings across a given radius or locality in an EIA. Rapid Cumulative Impact Assessment and Management (RCIA) six-stage steps could be adopted in legislation.

### Monitoring, compliance and enforcement

- (a) Setting up of a special environmental court to try environmental offences.
- (b) A revision of the penalty for failing to obtain an environmental permit before commencing an undertaking when necessary to make it more punitive and in effect deter offenders.
- (c) Inclusion of a penalty of ten percent of the project cost as punishments for non-compliance with the law for an Environmental permit.
- (d) A mandate for the EPA to publish annually, offenders and defaulters who have been successfully prosecuted after starting or undertaking a project without the necessary and correct permits, together with the details of the respective sanctions meted out.
- (e) A requirement in law that mandates the EPA to publish the annual environmental report and environmental management plans they receive from holders of environmental permits on its website to allow public scrutiny, assessment and comments.
- (f) Specify the minimum requirements in terms of structure and the contents of an environmental management plan and to require its submission before commencement of operations.
- (g) There should be clarity on making information available in good and sufficient time to the public on the duties or work being done by the EPA.





# Ensuring Sustainable Land-Use THROUGH Effective Environmental Assessment In Ghana





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# Introduction

Biodiversity, as a key component of our ecosystems, is of vital importance for the services these ecosystems provide. On top of that it has an intrinsic value, which cannot be overestimated. The protection of biodiversity goes beyond the establishment of protected areas such as the Kakum National Park. It needs to be integrated into the wider environment and into the different sectoral policies, plans and programmes. With legislative framework such as the Environmental Protection Act, 1994 and its subsidiary legislation, the Environmental Assessment Regulations 1999, this integration applies to governmental and private projects, as well as to national and foreign projects that may have negative impact on biodiversity and the environment as a whole.

Environmental Assessment (EA) is a tool that ensures the incorporation of environmental information in sound and well-balanced decision making. It can be delivered, alongside other assessments, through Environmental and Social Impact Assessment (ESIA), and Strategic Environmental Assessment (SEA). EIA/ESIA can be defined as ‘an instrument to identify and assess the potential environmental and social impacts of a proposed project, evaluate alternatives, and design appropriate mitigation, management, and monitoring measures. SEA can be defined as ‘a systematic examination of environmental and social risks and impacts, and issues, associated with a policy, plan or program, typically at the national level but also in smaller areas<sup>1</sup>. Despite the existence of EA legislations in Ghana, biodiversity is still in shape decline due to, inter alia, weak governance structure, inadequate implementation of existing laws, and loopholes in current legislation. This policy brief is a result of an assessment of an extensive list of legislation and regulations on environment assessment in Ghana.

# Findings

- SEA: The findings of this study indicate the absence in law of a requirement for SEAs in all areas. The current legal framework in place provides only for the requirement and procedure for EIAs to the exclusion of SEAs. Nonetheless, in practice, SEAs are occasionally undertaken and, indeed, EPA has a department for SEA. SEAs are usually undertaken by EPA in partnership with the relevant ministry to assess government policies and plans but there are no triggers or thresholds for the performance of SEA as this is largely determined by the availability of funding and political will (see textbox 1).

- Cumulative impacts: The law is silent on investigating the cumulative impacts of undertakings of a similar nature, across a given radius or locality. This may be compounded by the lack of coordination among sector agencies and institutions in giving out approvals or licenses in respect of physical developments affecting the environment.
- Access to information: While legislation does prescribe the responsibilities of both a project’s applicant, and the EPA to publicize an undertaking, the absence of a legal duty on the EPA to make available copies of EIA statements in soft copy makes access for public scrutiny to information on the EIA undertaken difficult and cumbersome. Besides making the scoping report and hard copies of the EIA statements available in its libraries and offices, there is no obligation on EPA to make the application for the environmental permit, screening reports, preliminary environmental reports, the review opinion on the EIA statement, the environmental plan, the annual environmental report and minutes and recommendations from a public hearing available to the public, either in hard or soft copy. The law does specify that the EPA must hold a public hearing for applications that receive adverse public reaction, but the law does not clearly indicate what constitutes “adverse public reaction” and does not specify a minimum notice period for such a hearing. Environmental Management Plans submitted to the EPA are also not published to allow public scrutiny.
- Environment Management Plan: The EPA has the duty to ensure compliance with any laid down EIA in the planning and execution of development projects, including compliance in respect of existing projects. Although an applicant is required to prepare an Environmental Management Plan, it is submitted after the issuance of the permit and after the commencement of operations. The law speaks nothing of the consequences of an unsatisfactory plan.
- The role of the EPA: this is somewhat undermined by triggers and thresholds that another sector legislation sets for EIAs to be performed. For example, a person planning to conduct any activity other than fishing, which is likely to have a substantial impact on fishery resources, must notify the Fisheries Commission. It also appears there is inadequate consideration of impacts on the environment in the award of mineral rights and petroleum exploration contracts as both do not require submission of an approved EIA statement during the application process. The law only requires that an environmental permit should be acquired before the commencement of mining or

petroleum activities. The EPA is under resourced in terms of workforce and logistics. This primarily affects the EPA’s ability to undertake its core mandate and effectively monitor compliance.

# Policy Recommendations

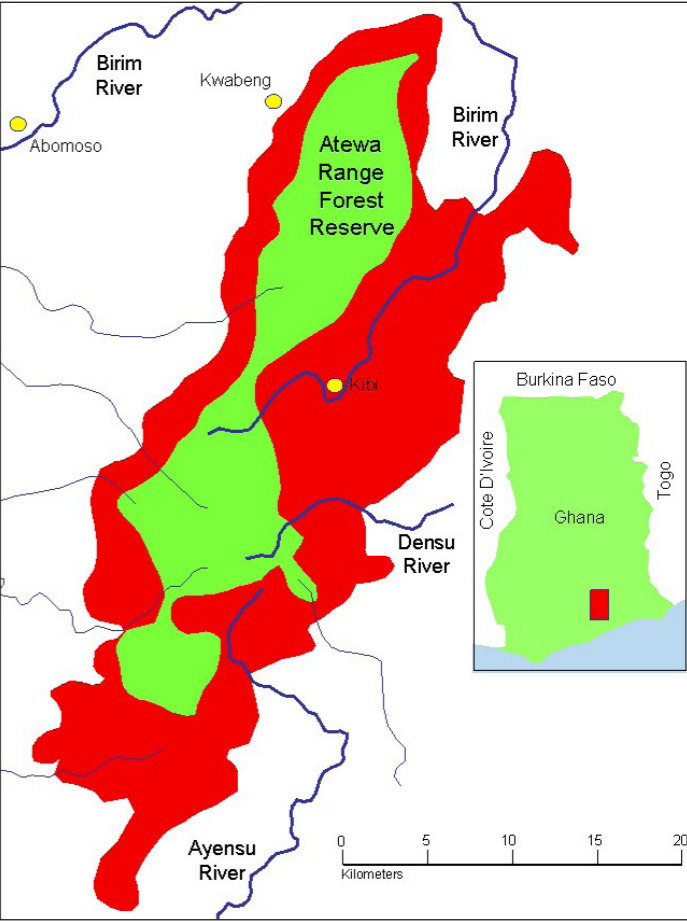
Strategic Environmental Assessment

- (a) Legislation is required to introduce a legal and technical framework governing SEA, the triggers and thresholds for its application, specifying which institution should supervise the process and criteria for its performance.
- (b) The legal framework should require the performance of a SEA before the commencement of any policy, plan or programme across a defined landscape. This should be undertaken by a multi-sectorial task force of stakeholders with EPA playing a coordination role.
- (c) Establishing a legal basis for SEA is a necessary step but is not sufficient on its own. Effective and efficient implementation mechanisms should also be put in place to enhance the environmental performance.

## TEXTBOX 1:

### SEA IN GHANA AND THE CASE OF ATEWA RANGE FOREST RESERVE

Although environmental regulations do exist in Ghana, there is no legal or institutional framework concerning SEA. SEA, therefore, is conducted voluntarily and sometimes starts even after the commencement of implementation of projects, plans and programmes. The Atewa Range Forest Reserve, which is one of the sites for the proposed bauxite mining by the government, may suffer this same fate if measures are not instituted. The reserve is one of Ghana’s Upper Guinean Forests declared as a Globally Significant Biodiversity Area (GSBA) and an Important Bird Area (IBA). The Integrated Bauxite and Aluminium Development Authority Bill, which is supposed to be passed into law, has no provisions for the conduct of SEA in any of the sites intended for bauxite mining. This bill, when passed into law, will lead to the establishment of an Authority that will oversee the development of a bauxite industry in Ghana. Bauxite mining in the Atewa Forest would have damaging impacts for biodiversity, wildlife, climate, water resources and people both present and future.



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<sup>1</sup> <http://documents.worldbank.org/curated/en/383011492423734099/pdf/114278-REVISED-Environmental-and-Social-Framework-Web.pdf>