



**CÔTE D'IVOIRE**

# CHAPTER 7: CÔTE D'IVOIRE

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## **7 CÔTE D'IVOIRE**

### **7.1 Constitutional requirements for environmental protection in Côte d'Ivoire**

The New Constitution of the Republic of Côte D'Ivoire of 8 November 2016, states in its preamble that the State is committed to:

- Preserving the integrity of the national territory;
- Safeguarding sovereignty over national resources and ensuring an equitable management thereof for the well-being of everyone;
- Promoting equality between men and women;
- Promoting transparency in the conduct of public affairs;
- Defending and preserving cultural heritage;
- Contributing to climate protection and to maintaining a healthy environment for future generations.

With respect to development issues that may arise in an environmental impact assessment, the Constitution:

- Recognises that everyone is equal (Article 4);
- Guarantees the protection of property; owners cannot be deprived of their property unless it is in the public interest with payment of reasonable and prior compensation (Article 11);
- Proclaims that only the State, public companies and Ivorian citizens can own rural land (Article 12);
- Protects the rights to decent working conditions and fair pay (Article 15);
- Prohibits child labour (Article 16);
- Grants citizens the right to information and access to public documents (Article 18);
- Promotes and protects cultural heritage (Article 24);
- Grants the right to everyone throughout the national territory to a healthy environment;
- The transit, importation or illegal storage and dumping of toxic waste on the national territory constitutes a crime that is not subject to any statute of limitations.

Article 40 sets out the provisions for the protection of the environment as follows: *“The protection of the environment and the promotion of the quality of life are a duty for the community and for each natural or legal person. The State is committed to protecting its maritime space, its waterways, its natural parks as well as its historic sites and monuments against any form of degradation. The State and public communities [must] take the necessary measures to safeguard the fauna and flora. Where there may be a risk of harm that could seriously and*

*irreversibly affect the environment, the State and public communities are required to assess the potential harm and to adopt the necessary preventive measures by applying the precautionary principle.”*

## **7.2 Institutional and administrative structure for environmental impact assessment in Côte d'Ivoire**

### **7.2.1 Economic, Social, Environmental and Cultural Council**

An Economic, Social, Environmental and Cultural Council has been established under Title XI of the Constitution. This Council gives its opinion on draft laws, ordinances or decrees as well as on draft proposals submitted to it. The President of the Republic may consult the Council on any economic, social, environmental and cultural issues (Article 163 of the Constitution).

### **7.2.2 Ministry of Environment and Sustainable Development**

The Ministry of Environment and Sustainable Development (MESD) came into existence on 10 July 2018, replacing the previous Ministry of Salubrity, Environment and Sustainable Development. The MESD has two Directorates: Environment, and Sustainable Development (Figure 7.1).

The mandate of the Environmental Directorate is:

- Planning and control of environmental policy, evaluation, studies and plans;
- Implementation of the Environment Code and the legislation for the protection of nature and the environment;
- Management and monitoring of projects funded by the Global Environment Facility and the United Nations Development Programme (UNDP);
- Establishment of the environmental services within the network of National Parks and Nature Reserves in liaison with the Ministers of Tourism, and Water and Forests;
- Protection and enhancement of aquatic, fluvial, lagoon and coastal ecosystems and wetlands;
- Management of National Parks and Nature Reserves in collaboration with the Minister of Water and Forests;
- Control of classified installations for the protection of the environment;
- Coordination of the management of major natural hazards;
- Strengthening the means and monitoring of industrial waste control in liaison with the Ministers concerned;
- Participation in the control of the operation of sanitation and drainage networks, in liaison with the Minister of Construction, Housing and Urban Planning;
- Supervision and monitoring of the management of industrial, agricultural, toxic or dangerous waste in liaison with the Ministers concerned.

The principle activities under the Directorate of Sustainable Development are:

- Development and implementation of government policy in the field of sustainable development;
- Preparation and implementation of the Government's renewable energy policy, development and promotion of green technologies contributing to the improvement of the quality of the environment through the reduction of discharges into water, air and soil and the reduction of energy consumption in liaison with the Minister of Petroleum, Energy and Renewable Energy;
- Development and implementation of the policy against global warming and air pollution;
- Promotion of sustainable management of scarce resources;
- Participation in international climate negotiations;
- Ensure the integration of sustainable development goals into development and related environmental impact assessments (EIAs);
- Contribution to policies involving citizens in projects with a significant impact on the environment;
- Proposal for any measures to improve the quality of life;
- Contribution to the development of education and training of citizens in environmental matters;
- Establishment of the Sustainable Development Commission;
- Development and coordination of water policy and biodiversity protection.

### **7.2.3 National Environmental Agency**

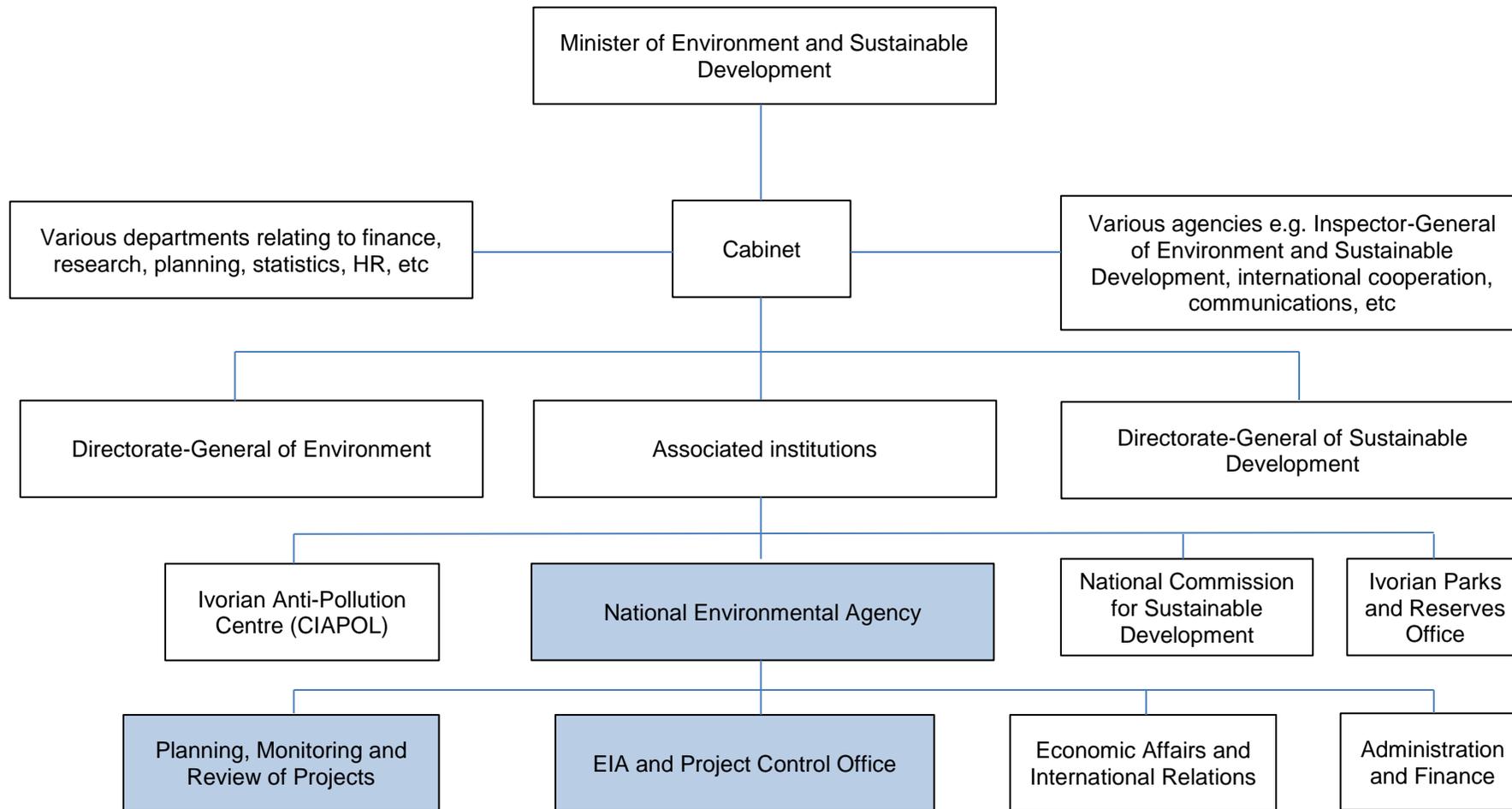
The National Environmental Agency (NEA) was created by Decree No. 97-393 of 9 July 1997. It is one of the associated agencies within the MESD (Figure 7.1). Its mission is to:

- Coordinate the execution of environmental development projects;
- Build and manage a portfolio of environmental investment projects;
- Ensure that environmental concerns are taken into account in development projects and programmes;
- Ensure the establishment and management of a national environmental information system;
- Implement the impact assessment procedure and the assessment of the environmental impact of macro-economic policies;
- Establish an ongoing relationship with networks of non-governmental organisations (NGOs);
- Develop environmental profiles and local authority management plans;
- Perform environmental audits of works and companies;
- Educate, inform and communicate awareness around the protection of the environment.

The NEA proclaims itself to be a one stop shop for environmental assessments and the home of the National Authority and focal point for the Clean Development Mechanism in terms of the Kyoto Protocol.<sup>1</sup>

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<sup>1</sup> <http://www.environnement.gouv.ci/structurec.php>



**Figure 7.1: Organisational chart of the technical departments responsible for EIA in the Ministry of Environment and Sustainable Development**

The NEA is administered by a Commission composed of the Ministers or their representatives from the ministries responsible for: environment, finance, agriculture, infrastructure, mines, energy, higher education, research and technology, health, industrial development, planning, and home affairs. In addition, representatives from the Chambers of Commerce and Industry, and Agriculture also sit on the NEA Commission.

The NEA includes four sub-directorates (Figure 7.1):

1. The sub-directorate of Project Planning, Monitoring and Evaluation;
2. The sub-directorate of Environmental Impact Assessment and Project Control;
3. The Department of Economic Affairs and International Relations;
4. The Administrative and Financial Affairs sub-directorate.

The Sub-Directorate of Environmental Impact Studies and Project Control is in charge of:

- The formulation of sectoral directives and the implementation of environmental impact assessment (EIA) procedures;
- Technical coordination of the implementation of EIA procedures;
- Monitoring and control of compliance as specified in the EIA;
- The evaluation of the costs of nuisances and the expenses to be incurred to reduce them.

#### **7.2.4 Ivorian Anti-pollution Centre**

The fourth key institution to be mentioned with regards to environmental management and EIA in Côte d'Ivoire is the Ivorian Anti-pollution Centre (known by its French acronym, CIAPOL). CIAPOL was established by Decree No. 91-662 of 9 October 1991. CIAPOL is in charge of monitoring the level of pollution in water (lagoons, sea and fresh water), soil and air.

CIAPOL is administered by an inter-ministerial commission composed of representatives from a range of key ministries and chaired by MESD. One of the 3 sub-directorates of CIAPOL is the Central Environmental Laboratory, which conducts environmental monitoring of water, noise, air and soil pollution, analysis of samples in the government laboratory and interprets the data as part of the implementation of the National Observation Network of Côte d'Ivoire, as well as for other public and private clients. One of its mandates is to participate in environmental impact assessments of development projects.

#### **7.2.5 National Commission on Sustainable Development**

The National Commission on Sustainable Development (NCSO) was established by Decree No. 2004-649 of 16 December 2004. This Decree sets out the attributions, organisation and functions of the NCSO. The NCSO is a consultative body which aims to define policy directions and to propose the national strategy for sustainable development, taking into account the triple bottom-line of the social, economic and environmental dimensions of sustainability.

## **7.2 Policy and legal framework for EIA**

### **7.3.1 National Environmental Action Plan**

The National Environmental Action Plan was developed in 1995 as a collaborative effort between the Ivorian government, local government, World Bank and civil society. It set out ten focal areas for the period 1996-2010 relating to: sustainable agriculture, preservation of biodiversity, management of human settlements, coastal zone management, industrial pollution and nuisances, integrated water management, enhancement of energy resources, research, education, training and awareness raising; sharing of environmental information, and promotion of an institutional and legal framework.

The goals of the NEAP were then applied to the development of the Environment Code in 1996 (see s. 7.3.4 below). However the NEAP was not updated after 2010 and no provision has been made to update it further.

### **7.3.2 Other relevant policies and plans**

#### **National Development Plan (NDP)**

The NDP 2016-2020 deals with the issue of the preservation of the environment in Strategic Goal 4, entitled Development of Infrastructure within the Country and Preservation of the Environment. The NDP pays major attention to the issue of environmental protection, the development of a green economy and the reduction of deforestation. Strategic Goal 4 aims to ensure sustainable management of natural resources and adaptation and mitigation of climate change effects.

#### **National Strategy for Conservation and Sustainable Use of the Biological Diversity**

The National Strategy for the Conservation and Sustainable Use of Biological Diversity adopted in 2003 was the result of several studies and analyses carried out during regional workshops between 2000 and 2002. The overall vision is that by 2025, the biological diversity of Côte d'Ivoire will be managed in a sustainable way in order to achieve the equilibrium of ecosystems, the improvement of the quality of life of the current population, and to preserve the legacy of future generations. To achieve this, the strategy is structured around an approach based on eight fundamental themes and eighteen strategic axes, the implementation of which should make it possible to reverse the trend of forest degradation in Côte d'Ivoire (amongst other things).

### **7.3.3 Climate change policies, plans and programmes**

Côte d'Ivoire is experiencing floods, storms, landslides, droughts, and coastal erosion because of increasing temperatures and disruptions in rainfall. The National Meteorological Directorate has reported that, during the past five decades, the country has already seen an average temperature increase of 0.5°C. These climate changes adversely impact most sectors of the economy, especially agriculture, water resources, land use, coastal resources, forestry and energy. The Government of Côte d'Ivoire has recognised the need for action at national and sectoral levels to address and adapt to the impacts of climate change and has taken some initial steps in that direction, such as the First

and Second Communications to the United Framework Convention on Climate Change (UNFCCC) in 2001 and 2010 respectively. The latter identified three national projects focussing on health and cross-sectoral issues and focussed on initial adaptation strategies such as awareness-raising, research and capacity building.

The 2015-2020 National Climate Change Programme developed by the (then) Ministry of Salubrity, Environment and Sustainable Development, also proposed some mitigation and adaptation interventions. It highlighted the importance of mainstreaming climate change into development planning. This is reiterated in the Intended Nationally Determined Contributions submitted to the UNFCCC in 2015, and the formulation of a National Adaptation Plan (NAP), which is mandated under Law 2014-390.

In spite of all these initiatives, the country has not had much tangible success with regards to climate change adaptation for a number of reasons, such as: the roles and responsibilities on climate change adaptation are not clear within the government; technical capacities on adaptation planning and mainstreaming are limited; current data is insufficient to conduct risk-informed adaptation planning; no monitoring, reporting, and verification system is in place for adaptation; no climate change-specific financial mobilisation strategy exists; and the private sector's awareness of the risks and opportunities of climate change is limited.<sup>2</sup>

A recent (2019) application to the Green Climate Fund for 'Strengthening Climate Change Adaptation Integration into Development Planning in Côte d'Ivoire' states that the project will focus on five of the six highly vulnerable sectors in the country: agriculture, water resources, land use, coastal resources, and health while the sixth, forestry, will be covered under the UNDP REDD+ project. Gender concerns will be integrated throughout.

### **7.3.4 The Environment Code**

Environmental management and environmental impact assessment are covered in the Environment Code, Law No. 96-766 of 3 October 1996. The rules and procedures for carrying out environmental assessments for development projects are contained in Decree No. 96-894 of 8 November 1996 (see s. 7.3.5 below).

The Environment Code defines the environment as being *"the ensemble of all physical, chemical and biological elements as well as the socio-economic factors likely to have a direct or indirect, immediate or eventual effect on the environment, living organisms and human activities."* The Environment Code also defines the human environment as including *"the living environment and spatial planning"* and Art. 53 states that cultural heritage is an integral part of the environment as well.

The natural environment is further defined as: the soil and sub-soil, water resources, air, biological diversity, and landscapes, sites and monuments.

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<sup>2</sup>[https://www.greenclimat.fund/documents/20182/466992/Readiness\\_proposals\\_Cote\\_d\\_Ivoire\\_UNDP\\_Adaptation\\_Planning.pdf/d8cd4929-96ae-20e6-518c-677039124271](https://www.greenclimat.fund/documents/20182/466992/Readiness_proposals_Cote_d_Ivoire_UNDP_Adaptation_Planning.pdf/d8cd4929-96ae-20e6-518c-677039124271)

These definitions leave no doubt about the fact that the term 'environment' in Côte d'Ivoire is considered to be inclusive of all environmental components.

The aims of the Environment Code are to:

- Protect natural resources, including land, landscapes and natural monuments, fauna and flora, including existing national parks and reserves;
- Establish the fundamental principles of management and protection of the environment in order to increase the value of natural resources and fight against all kinds of pollution and nuisances;
- To improve the living conditions of the different populations and to promote balance with the environment
- Define the framework for the rational and sustainable use of natural resources for present and future generations;
- Restore the restoration of damaged environments

In planning and executing activities that may have a significant impact on the environment, public authorities and individuals must comply with the following fundamental environmental principles (Art. 35):

- Precaution;
- Substitution;
- Preservation of biodiversity;
- Non-degradation of natural resources;
- Polluter pays;
- Information and participation; and
- Cooperation (Art. 35 of the Environment Code)

The Environment Code reiterates the Constitutional clauses relating to the right of everyone to live in a healthy and balanced environment. Citizens also have the duty to contribute individually or collectively to the safeguarding of the natural heritage.

### **7.3.5 Regulations**

The rules and procedures for conducting EIAs for development projects are set out in Decree 96-894 of 8 November 1996. The application of the requirements set out in Decree 96-894 is found in Order No. 00972 of 14 November 2007, which aims to promote the consideration of environmental constraints in the development, implementation and execution of development projects, and to encourage proponents to design out negative impacts during the conceptual and implementation phases of the project.

Activities which require a mandatory EIA or an Impact Statement are listed in Annexes I and II of Decree 96-894 respectively, however, the rules for the determination of which activities are classified and the methodology used to classify them are contained in Decree No 98-43 of 28 January 1998.

Other applicable regulations include:

- Decree No. 2005-03 of 6 January 2005 regarding environmental audits, and Order No. 973 of 14 November 2007 which relates to the application of this Decree.
- Decree No. 2012-1047 of 24 October 2012, which fixes the modalities of applying the polluter pays principle as defined in the Environment Code.
- Decree No. 2013-390 on strategic environmental assessments (SEAs) for policies, plans and programmes.
- Order No. 01164/MINEF/CIAPOL/SDIIC of 04 November 2008 provides regulations for the control of discharges and emissions from classified installations. In particular, disposal of wastewater and sludge (Art. 6), gas emissions (Art. 7), monitoring of wastes and emissions (Art. 10). Article 30 states that all records relating to compliance with the requirements of the environmental licence are to be kept by the organisation for five (5) consecutive years.

### 7.3.6 Permits and licences

The following facilities cannot be implemented without prior authorisation issued by the NEA issued in the form of an Approval Order:

- Classified installations as defined (in Decree No. 98-43 and Decree No. 96-894) such as: factories, depots, mines, construction sites, quarries, underground or surface storage, stores and workshops;
- Facilities operated or owned by any natural or legal person, public or private, which may present a hazard or inconvenience for health and public safety;
- Spills, discharges and deposits likely to cause, or increase the degradation of the receiving environment (Art. 6 of the Environment Code).

### 7.3.7 Offences and penalties

Offences and penalties are spelt out in Articles 88 to 104 of the Environment Code. These are summarised in Table 7.1.

**Table 7.1: Offences and penalties**

Offence	Penalty
Failure to undertake an EIA as required or falsification of the findings of the EIA (Art. 88)	Suspension of the activity or closure of the facility (without prejudice to repairing the damage to the environment, people and property)
Felling trees or killing animals in classified forests, protected areas or National Parks (Art. 89)	Imprisonment for 2 months to 2 years and a fine of 5 million CFA
Destruction of a cultural heritage site or monument (Art. 90)	Imprisonment for 6 months to 2 years and/or a fine of 10 million to 100 million CFA
Obstructing inspectors from carrying out an inspection at a	Imprisonment for 1 - 6 months and a fine of 1 million to 5

Offence	Penalty
classified installation (Art. 91)	million CFA
Refusal to stop operations at a classified installation in spite of an official Notice to cease work (Art. 93)	Imprisonment for 1 month to 1 year and a fine of 200,000 to 2 million CFA
Continuance of activities at a facility that has been closed in terms of the Environment Code (Art. 94)	Imprisonment for 2 months to 2 years and/or a fine of 50 million to 100 million CFA
Anyone who unlawfully explores for or produces hydrocarbons (Art. 95)	Imprisonment for 6 months to 2 years and/or a fine of 1 million to 2.5 million CFA
Anyone who discharges prohibited waste and pollutants without authorisation in terms of Arts. 74 to 86 of the Environment Code (Art. 96)	A fine of 100 million to 500 million CFA
Pollution of the sea (Art. 97)	Imprisonment for 2 months to 2 years and/or a fine of 2 million to 50 million CFA In the case of repeat offences the penalty will be doubled
Anyone who discharges any waste into continental waters from a ship, which could affect public health, biological marine resources, interfere with navigation and fishing, alter marine water quality and degrade the tourism value of the sea and coastal environments (Art. 98)	Imprisonment for 1 to 5 years and/or a fine of 100 million to 1 billion CFA. In the case of a second offence, the penalties will be doubled and the NEA reserves the right to seize the ship
Anyone who disposes of waste into national waters or imports waste without authorisation, and any other marine waste infractions (Art. 99)	Imprisonment for 1 to 5 years and a fine of 5 million to 100 million CFA
Fly tipping (Art. 100)	Imprisonment for 3 to 24 months and/or a fine of 1 million to 30 million CFA, plus suspension of their waste collection authorisation.
Anyone who purchases, sells, imports, stores and dumps hazardous waste (Art. 101)	Imprisonment for 10 to 20 years and a fine of 500 million to 5 billion CFA Seizure of the means used to commit the offence (e.g. a ship) and an order to dispose of the waste in a legal manner at the cost of the owner of the waste
Littering, dumping of rubbish, incorrect disposal of sewage or sludge (Art. 102)	A fine of 1,000 to 10,000 CFA and may be required to clean the area affected
Anyone who causes noise pollution, odours and light pollution (Art. 103)	A fine of 10,000 to 500,000 CFA
Illegal advertising and graffiti on listed buildings, cultural heritage sites or national monuments (Art. 104)	A fine of 50,000 to 5 million CFA

### 7.3.8 Fees

A fee of 5 million CFA is charged by NEA to develop and approve the ToRs for an EIA (Arts. 7 and 26 of Order No 00972).

The cost of an environmental authorisation includes the following activities by NEA: a site visit, organisation of a public hearing, technical evaluation of the EIA report by an inter-ministerial committee and an Approval Order. The following fees are applicable (Art. 27 of Order No. 00972):

**Table 7.2: Fees payable for EIA review and approval**

Type of project	Fees payable (CFA)
Infrastructure	50,000,000
Textile, leather, wood and paper industries	40,000,000
Metalwork and glass industries	45,000,000
Chemical industries	70,000,000
Food and beverage industries	35,000,000
Waste disposal projects	15,000,000

Type of project	Fees payable (CFA)
Energy generation and transmission	60,000,000
Mineral exploration	15,000,000
Mining	30,000,000 per annum
Quarry exploration	10,000,000
Quarrying	20,000,000 per annum
Oil and gas exploration	20,000,000 per block
Oil and gas production	50,000,000 per well per annum
Other projects requiring an EIA	10,000,000

Fees for ToR and EIA report approval for service (fuel filling) stations are 1,500,000 and 3,000,000 CFA respectively.

Fees for the development of ToRs for an SEA and the implementation of the recommendations of the SEA will be determined by Ministerial Order.

### 7.3.9 Guidelines

No sectoral guidelines could be found.

### 7.3.10 Environmental standards

CIAPOL is responsible for setting environmental standards and quality objectives. Order No. 01164/MINEEF/CIAPOL/SDIIC of 4 November 2008 sets out the regulations on waste and emissions from classified installations. Standards have been established under this Order for gaseous emissions and waste water and effluent as shown in Tables 7.3 and 7.4 below.

**Table 7.3: Guideline limits for gaseous emissions**

Emission parameters	Hourly total flow	Maximum allowable (mg/m <sup>3</sup> )
Carbon monoxide (CO)	>1 kg/h	50
Sulphur dioxide (SO <sub>2</sub> )	>25 kg/h	500
Nitrogen oxides (NO <sub>x</sub> )	>1 kg/h	50
Total suspended particulates	<1 kg/h	100
	>1 kg/h	50

**Table 7.4: Guideline limits for waste water and effluent**

Parameter	Guideline limit in mg/l (except where shown)	Comment
pH	5.5 – 8.5 units	
Temperature	<40 °C	
Total phosphorus as P	15	If daily flow >30 kg/d
Kjeldahl nitrogen as N	50	If daily flow >100 kg/d
Chemical oxygen demand (COD)	500	If daily flow <150 kg/d

Parameter	Guideline limit in mg/l (except where shown)	Comment
	300	If daily flow >150 kg/d
Biological oxygen demand (BODO)	150	If daily flow <50 kg/d
	100	If daily flow >50 kg/d
Oil and grease	30	If daily flow < 5 kg/d
	10	If daily flow >5 kg/d
Iron as Fe	5	If daily flow >20 kg/d
Total Chrome as Cr	0.5	If daily flow >5 kg/d
Total hydrocarbons	10	If daily flow >100 kg/d

Where no national standards exist, e.g. for noise, potable water quality, reference should be made to international standards set by the World Health Organisation or the World Bank/International Finance Corporation.

### 7.3.11 Certification of consultants

EIAs of development projects must be undertaken by EIA consultants approved in terms of Art. 9 of Decree 96-894 and Chapter 3 of Order No. 00972 of 14 November 2007. The duration of the approval is 5 years and a list of approved consulting firms is published periodically in the Official Journal. However, the approval may be suspended or withdrawn if the EIA consulting company does not abide by the rules of professional conduct.

The approval fee is 5 million CFA, payable to NEA.

## 7.4 EIA procedural framework in Côte d'Ivoire

### 7.4.1 Screening

Decree No. 98-43 provides the rules and regulations relating to the identification and definition of classified installations. Factories, depots, sites, quarries, underground storage, stores, workshops and in general, all facilities operated or owned by any natural or legal person, public or private, which may present dangers or inconvenience to the neighbourhood, the health and safety of the public, agriculture, the protection of nature and the environment and the conservation of sites and monuments, are subject to an environmental approval or declaration according to the gravity of the risks which their implementation and operation may present.

In terms of Article 2 of Decree No. 96-894 of 8 November 1996, projects which are listed in Annex I and/or those projects which are situated in or near a sensitive environmental area (listed in Annex III), must be subjected to an environmental impact assessment (EIA) (Figure 7.2). Annexes I and III are provided in Appendices 7-1 and 7-3 at the end of this Chapter. Note that exploration and mining is prohibited within a protected area.

Article 5 of the Decree requires the proponents of all projects listed in Annex II (Appendix 7-2) to submit an Impact Statement to the EIA Office of the NEA so that they may determine whether the project poses a serious environmental risk and whether a full EIA is required or not (Figure 7.2). The Impact Statement must include an inventory of the effects of the project or programme, without necessarily assessing any alternatives or providing any mitigation measures.

The third category of projects is those for which a Categorical Exclusion Statement is required (Article 6). These projects must be subjected to a 30 day period of debate (from the date of the proponent's request). If the EIA Office believes that the project will have significant negative effects on the environment, they will request the proponent to complete an EIA or Impact Statement, even though the project may not be listed in Annexes I, II or III (Art. 8) (Figure 7.2). If no response is received after 30 days, the project is deemed to be excluded from further impact studies.

#### **7.4.2 Impact Statement (for Annex II projects)**

The Minister has 30 days from the date of submission of the Impact Statement by the proponent to give his approval, or to request an additional 15 days to complete the appraisal of the project documents (Art. 7). After this review period, the decision about the project will be communicated to the applicant and the relevant line ministry and a receipt for the Impact Statement issued. If no response has been received from the EIA Office after 30 days, the project is deemed to be approved.

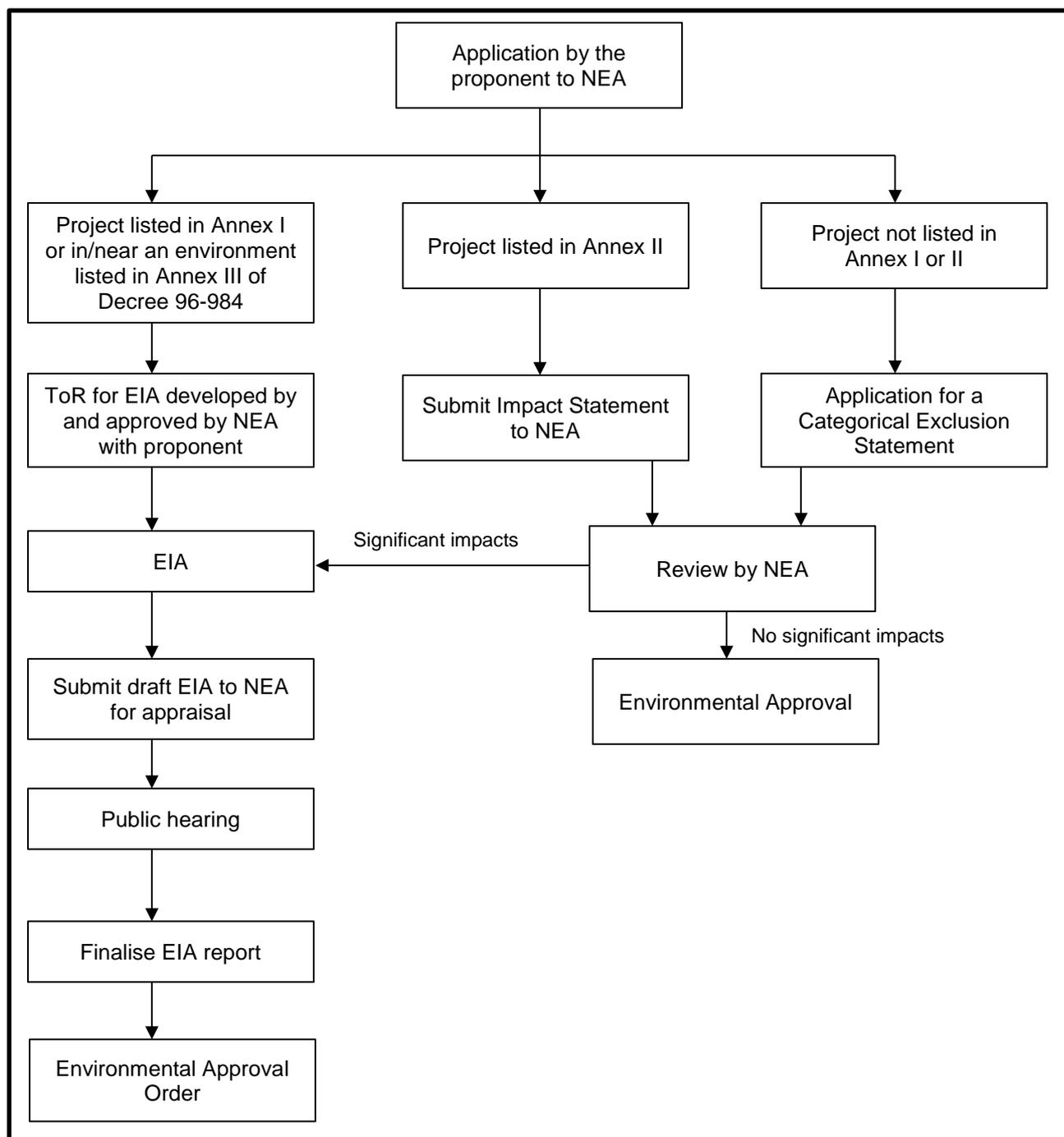
#### **7.4.3 Terms of Reference**

According to Art. 6 of Order No. 00972 of 14 November 2007, the terms of reference (ToR) for an EIA must be developed and approved by NEA. This must be done within 15 days of receipt of the application from the proponent. The ToR approval process involves a one-day workshop between the approved environmental consultant, the proponent and the NEA to agree the content of the ToR.

#### **7.4.4 Environmental Impact Assessment**

The proponent is responsible for hiring and paying an independent, approved EIA consultant or consulting company (see s. 7.3.11). Art. 9 of Decree 96-894 states that the EIA team must contain at least two-thirds local experts and no more than one-third non-local.

On completion of the EIA, one original and three copies of the report must be submitted to EIA Office of NEA by the proponent.



**Figure 7.2: EIA procedure**

Article 40 of the Environment Code, supplemented by Article 12 and Annex IV of Decree 96-894, states that the Environmental Impact Assessment (EIA) must comprise at least the following:

- A non-technical summary;
- Introduction setting out the objectives of the report, those responsible for compiling the report, the EIA procedures and methodologies followed;
- A description of the proposed activity, including the location, a justification for the project or programme, an elaboration of the project's objectives; a detailed description including raw material inputs, processes, equipment required, products, etc.; maps and diagrams as needed; a summary of the technical and economic conditions required for the successful

development of the project; the implementation programme; and the reasons why an EIA is required;

- A qualitative and quantitative description of the biophysical and socio-economic environments likely to be affected, the definition of zones of influence including sensitive environments, analysis of environmental trends and the identification of data gaps. Specifically, the following environmental components must be described and analysed:
  - Fauna, flora, natural richness of biodiversity;
  - Hydrological systems;
  - Climate;
  - Soil;
  - Land use e.g. agriculture, natural vegetation, urbanisation, industry, tourism;
  - Human milieu including demographics, sanitation, settlements;
  - Land ownership, title and rights;
  - Land zoning and management plans, protection orders and so on.
- A description of alternatives, if any, and the reasons for the preferred option(s);
- An assessment of the likely or potential effects of the proposed activity and other viable alternatives on the environment, including direct, indirect, cumulative effects in the short, medium and long term;
- The identification and description of measures to mitigate the effects of the proposed activity and other viable alternatives on the environment, and an assessment of these measures;
- An indication of the environmental risks to a neighbouring state due to the proposed activity or its alternatives;
- The procedures for regular monitoring and follow-up of environmental indicators before (initial state), during the construction stage, during the operation of the facility and, if applicable, after the end of the operation);
- A financial estimate of the measures recommended to prevent, reduce or offset the negative effects of the project on the environment and the relevant regular environmental monitoring and control measures;
- Recommendations regarding the overall evaluation of the project or programme;
- Annexures containing information relating to all communications, consultations, written opinions, public participation, and data gathering methodologies.

In the case of mining projects, the EIA report must include a closure plan. To this end, the holder of a mining title must open an escrow account before starting any activities, which must contain sufficient funds to cover the costs of closure, including clearing and rehabilitating the site, removal of all mine infrastructure, as well as post-rehabilitation monitoring.<sup>3</sup>

#### **7.4.5 Review of Environmental Impact Assessment**

The EIA consultants must submit between 3 and 10 copies (depending on the nature of the project) of the EIA report to NEA for approval. The report will be examined by a qualified expert from a list

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<sup>3</sup> [www.iclg.com](http://www.iclg.com)

approved by the Minister responsible for the environment, based on a recommendation from the Director of the NEA. This examination must not take longer than 15 days to complete from the date of receipt of the documents. Approval of the report takes a further 15 days. The approval process involves the following steps:

- A preliminary workshop with the EIA consultants at which the consultant presents the main findings of the report in order to allow NEA to obtain an appreciation of the issues and whether to undertake a site visit;
- A visit to the proposed project site to obtain an understanding of the baseline environment.

The Minister has **2 months** (from the date of receipt of the EIA report) to notify the proponent of his/her approval of the project. A certificate followed by an Approval Order for the EIA will be delivered by the NEA to the proponent if the project is found to be environmentally viable. If no communication has been received from the EIA Office at the end of this period, the project is deemed to be approved (Art 14 of Decree 96-894).

#### **7.4.6 Public hearing**

Projects which require an EIA must be subjected to a public hearing where the EIA report is made available to the public. The minutes of all meetings, duly signed, must be appended to the EIA report. The NEA is responsible for organising the public meeting.

#### **7.4.7 Decision-making**

The final project description (i.e. the preferred alternative determined in the EIA) and specifically the mitigation measures identified to manage and control the impacts, will become part of the conditions of approval. This approval can be withdrawn if the event of non-compliance with the conditions of approval (Art. 18 of Decree 96-894).

The approval is valid for 3 years, but will be withdrawn if no work has commenced on the project during that period or operations have not been undertaken for 2 consecutive years (except in a case of '*force majeure*') (Art. 12 of Decree 98-43).

#### **7.4.8 Appeals**

The proponent may resort to arbitration by the supervisory authorities or any other body designated for that purpose, in the event that s/he objects to the decision made by the Minister responsible for the environment.

#### **7.4.9 Environmental audit**

A compliance audit must take place 6 months after the start of the project. This audit should be conducted by an approved environmental consultancy, contracted by the proponent. The aims of the audit are to make sure that the project activities are being undertaken in compliance with the

approved environmental management plan (EMP) (Arts. 18 and 19 of Order No. 00972). The results of the environment audit must be submitted to the NEA (Art. 50 of the Environment Code).

The procedures to be followed for an environmental audit are contained in Decree No. 2005-03 of 6 January 2005 and the associated Order No. 973 of 14 November 2007. All businesses, industries and works must carry out an environmental audit every 3 years. In addition, any individual or group of people, as well as any level of government, may request the Minister to initiate an environmental audit. The scope of such audit is to be determined by the person, group or institution requesting the audit.

Decree No. 2005-03 distinguishes between two types of audit: those assessing compliance with the EMP and those to assess conformity with Environmental Management Systems (EMS). EMP audits aim to: a) assess the proponent's compliance with the specified requirements; b) determine the efficacy of the pollution control measures in place; and c) evaluate the efficiency of the mitigation measures in reducing the number of infractions and the improving performance against the Key Performance Indicators.

The EMS audits must comply with the ISO 14000 standards and demonstrate achievement of the objectives and goals of the EMS and the efficiency of cost-reduction measures.

Audits may be done internally, or by approved external consultants, or by certified auditors (e.g. for ISO certification). External audits are initiated by the Minister in charge of the environment on the advice of the NEA. The cost of such audits must be borne by the auditee.

The audit must follow the standard procedures for an audit comprising 6 steps:

- Initialisation of the audit;
- Preparation for the audit;
- The audit itself;
- Synthesis of the audit findings;
- Audit report; and
- Corrective actions and follow up.

In addition, classified installations can be inspected by sworn agents having the quality of a Judicial Police Officer in the exercise of their function (Art. 45 of the Environment Code). Such inspections give rise to an inspection fee, payable to the National Environment Fund (Art. 46 of the Environment Code).

#### **7.4.10 Strategic environmental assessment**

Decree No. 2013-41 of 30 January 2013 sets out the processes and procedures to be adopted to conduct strategic environmental assessments (SEA) for policies, plans and programmes in Côte d'Ivoire. The following must be subjected to an SEA:

- Policies, plans and programmes developed in the sectors relating to: protected areas, agriculture, forestry, fisheries, energy, mining, industry, transport, waste management, water management, telecommunications, economic infrastructure, tourism, education, health, urban planning, land use plans and development plans;
- Policies, plans and programmes which could have an impact on high risk or sensitive ecological areas; and
- Any other policy, plan or programme that may be identified by the NEA in agreement with the affected line ministry.

However, policies, plans and programmes in relation to national defence or emergency relief works are not included.

The ToR for the SEA will be developed by NEA, including the identification of the interested and affected stakeholders. The SEA must be undertaken by an individual or company approved by NEA and must contain at least the following:

- A non-technical summary;
- Presentation of the proposed policy, plan or programme together with the stated objectives and its links to other relevant policies, plans and programmes;
- The names of the proponent and the EIA consultant who prepared the SEA;
- The institutional and legal context;
- The environmental characteristics of the areas likely to be significantly affected by the policy, plan or programme;
- The significant environmental impacts on biodiversity, local communities, human activities, health, fauna and flora, soils, water, air, climatic factors, material goods and services, cultural heritage, including archaeology, landscapes and the interactions of these factors;
- Summary of the public consultation process including the opinions expressed by stakeholders;
- Recommendations and measures to avoid, reduce and if possible, compensation all negative impacts during implementation of the policy, plan or programme.

The SEA report will be appraised by a national commission convened by an Order. During this process, the public will be consulted.

#### **7.4.11 Trans-boundary impacts**

Côte d'Ivoire lies on the West African coast and is bordered by Ghana to the east, Burkina Faso and Mali to the north and Guinea and Liberia to the west. One of the requirements for inclusion in the EIA report, is consideration of trans-boundary impacts.

## 7.5 Other relevant environmental legislation in Côte d'Ivoire

Aspects of environmental management are covered in many different laws and regulations in Côte d'Ivoire; the main laws relevant to EIAs are shown in Table 7.5 below.

**Table 7.5: Other potentially applicable sectoral requirements**

Sector	Primary agency	Title and date of document	Purpose
Water and sanitation	MESD: DGE	Environmental Code	Article 25: The characteristics of waste water and effluent must not be noxious to the receiving environment.
	Ministry of Water and Forests	Water Code, Law No. 98-755 of 23 December 1998	The Water Code sets out the fundamental principles relating to the governance and management of water, water construction projects, protection of water sources, etc. The Code specifies the general rules for the conservation and distribution of water, the quality of water works and the harmonious use of scarce water resources.
		Decree No. 2013-440 of 13 June 2013	Determines the conditions and procedures for classifying and declassifying water resources, maintenance of water schemes.
	Ministry of Construction, Housing and Urban Development: Dept. of Urban Sewerage and Drainage	Drainage and Sewerage Policy	
	Ministry of Public Health and Hygiene Ministry of Sanitation	Sanitation and Hygiene Policy	
Waste and emissions	MESD: DGE Local authorities	Environment Code	Article 26: All wastes, especially biomedical and hazardous wastes must be collected, treated and disposed of in an ecologically acceptable manner in order to prevent or reduce their toxic effects on human health and on natural resources, including fauna, flora, and the quality of the environment.  Article 66: makes local authorities responsible for the collection, transport and disposal of household waste.
		Decree No. 91-662 of 9 October 1991	Creates the Ivorian Anti-pollution Centre (CIAPOL) and sets out its attributions, organisation and functions.
		Order No. 01164 / MINEF/CIAPOL/SDIIC of 04 November 2008	Contains regulations relating to the discharge and emission of gases and effluent from classified installations. Includes national standards and guideline limits.
		Decree No. 2012-1047 of 24 October 2012	Sets out the modalities for the application of the polluter pays principle (as defined in the Environment Code)
	Ministry of Public Health and Hygiene	Law No. 88-651 of 7 July 1988	Provides for the protection of public health and the environment against the effects of hazardous and radioactive industrial wastes and toxic substances.

Agriculture	Ministry of Agriculture and Rural Development  Ministry of Livestock and Fisheries	Law No. 2015-537 of 20 July 2015 on Agriculture	Aims at: specifying the actions for the optimal contribution of the agro-ecological potential and the agricultural know-how of the country; creating an environment conducive to the development of a formal agricultural sector; creating the conditions for the modernisation of family farming and agricultural enterprises, to favor the emergence of a structured and competitive agro-industrial sector integrated in the sub-regional and international economy; develop an agricultural sector that is sustainable.
Natural resources and conservation	MESD: DGE	Decree No. 2005-268 of 21 July 2005	Specifies the protection of the environment and the management of natural resources. It also includes the modalities of the application of Law No. 2003-308 of 07 July 2003 relating to the transfer and distribution of competences between the state and local government in matters relating thereto.
	MESD: Ivorian Parks and Reserves Office	Decree No. 2002-359 of 24 July 2002	Establishes the Ivorian Parks and Reserves Office, including its organisation, management and funding.
		Law No. 98-388 of 2 July 1998	Sets the rules for the establishment of national parks and defines the categories of parks and protected areas
Fisheries	Ministry of Livestock and Fisheries	Fisheries Code, Law No. 86-478	This framework law contains regulations for fishing in public waters and the maritime zone. It addressed the rights and conditions for fishing, policing of the fisheries industry amongst others.
		Law No. 2016-554 of 26 July 2016	Governs fishing and aquaculture activities and applies to: fishing in waters under Ivorian jurisdiction; fishing in inland waters; fishing in waters outside Ivorian jurisdiction for Ivorian-flagged vessels; any natural person or legal person engaged in fishing or aquaculture in inland waters or in waters under Ivorian jurisdiction.
Forestry	Ministry of Water and Forests	Forestry Code, Law No. 2014-427 of 14 July 2014	Covers, amongst others, the fundamental principles and general obligations for the development of national forestry policy; the institutional framework for forest management; the status of forests; the rights of forest users; the protection and conservation of forests; the exploitation and promotion of commercialisation of forest resources
Mining	Ministry of Mines and Geology	Mining Code, Law No. 2014-138 of 24 March 2014 and Decree No. 2014-397 of 25 June 2014	The Mining Code replaces the former mining code (Law No. 95-553 dated 18 July 1995) and is aimed at enhancing mining investment in Côte d'Ivoire, particularly in the gold sector, and strengthening its contribution to local development.
		Order No. 2014-148 of 26 March 2014	Provides for fees, royalties and mining taxes
		Ministerial Decree No. 002/MIM/CAB of 11 January 2016	Relates to the granting and renewal of mining titles
Energy	Ministry of Petroleum, Energy and Renewable Energy	Decree No. 2016-787 of October 12, 2016	Sets down the terms and conditions for production activities associated with the distribution and marketing of electric power by mini-grid or by individual autonomous systems of electrical energy production
		Decree No. 2016-783 of October 12, 2016	Sets out the conditions for the production and the terms of the sale of electric power produced by an independent producer or the excess of electrical energy produced by a self-producer

		Decree No. 2016-785 of 12 October 2016	On the organisation and functioning of the National Regulatory Authority of the Electricity Sector of Côte d'Ivoire (ANARE-CI)
		Electricity Code, Law No. 2014-132 of 24 March 2014	Regulates activities and tariffs in the electricity sector
		Petroleum Code, Law No. 96-669 of 1996 as amended by Ordinance No. 2012-369 of 18 April, 2012	Gives the State the sovereign right to oil and gas in the Exclusive Economic Zone and on the continental shelf.
Coasts	MESD: DGE	Decree No. 97-678 of 3 December 1997	Relates to the protection of the marine and lagoon environment
Land planning		Law No. 2003-308 of 07 July 2003	Relates to the transfer and distribution of competences between the state and local government.
		Decree of 25 November 1930	Relates to the expropriation of land for the public good.
		Decree No. 2013-224 of 22 March 2013, modified by Decree No. 2014-25 of 22 January 2014	Purges customary rights to land.
Health	Ministry of Public Health and Hygiene	Public Health Code	On 18 January 2018, the Minister for Public Health and Hygiene officially launched the process to review the Public Health Code.
Employment and labour	Ministry of Employment and Social Protection	Labour Code, Law No. 2015-532 of 20 July 2015	Governs all aspects of employment, working conditions, salary, occupational health and safety, unions and collective bargaining, etc.
		Decree No. 96-206 of 7 March 1996	Relates to the setting up of occupational health and safety committees and working conditions.
		Decree No. 98-40 of 28 January 1998	Allows for the establishment of consultative technical committees for occupational health and safety in the workplace.
		Decree No. 97-400 of 11 July 1997	Articles 41-43 relate to occupational health and safety in the workplace.
Gender	Ministry of Women, Family and Children	National Policy on Equal Opportunities, Equity and Gender, 2009	Its goal is to create a favourable environment which takes into account gender in all sectors of public and private life in order to promote sustainable development for everyone in the country.
		Various national programmes	On: gender-based violence; HIV/AIDS; Orphans and Children Vulnerable to HIV/AIDS; Protection of Children and Vulnerable Adolescents; Trade and Exploitation of Child Labour.

## **Appendix 7-1: Activities which require an EIA**

Hazardous, unhealthy or disturbing activities subject to authorisation in terms of Decree No. 98-43 and listed in Annex I of Decree No 96-894 require an EIA.

### **1 Agriculture:**

- a. Rural land consolidation projects;
- b. Clearings and plans for the allocation of uncultivated lands or semi-natural areas for intensive farming with an area of more than 999 ha.

### **2. Forest management:**

- a) Reforestation over an area of more than 999 ha.

### **3. Extractive Industries:**

- a) Oil and gas exploration and production;
- b) Mines and quarries.

### **4. Energy:**

- a) Oil refineries and liquefaction of natural gas;
- b) Thermal power plants and other combustion plants with a high calorific value;
- c) Hydroelectric dams.

### **5. Waste disposal:**

- a) All facilities for the storage and disposal of waste (by any means);
- b) Uncontrolled landfills which may or may not receive medical waste;
- c) Sewage treatment plants.

### **6. Food and beverage industries:**

- a) Vegetable and animal fats and oils;
- b) Preserved animal and vegetable products;
- c) Manufacture of dairy products;
- d) Breweries and maltings;
- e) Confectionery and syrups;
- f) Facilities for the slaughter of animals;
- g) Industrial fertilisers;
- h) Fish meal and fish oil plants;
- i) Manufacture of sugar;
- j) Water treatment plants for human consumption.

### **7. Chemical industries:**

- a) Factories producing chemicals, pesticides, pharmaceutical products, paint and varnish, elastomer and peroxides.

### **8. Metalwork:**

- a) Iron and steel factories and installations for the production of non-ferrous metals;
- b) Storage of scrap metal.

### **9. Textile, leather and paper industries:**

- a) Pulp and paper, and cotton ginneries;
- b) Cellulose production and processing units;
- c) Tannery and tanning units;
- d) Textile and dyeing units.

### **10. Infrastructure projects:**

- a) Construction of railways, motorways, as well as airports with a runway longer than 2,100 m;
- b) Commercial fishing ports and marinas;
- c) Development of industrial zones;
- d) Urban development;
- e) Canals and other forms of water regulation;
- f) Dams and reservoirs for water retention and storage;
- g) Oil, gas and any other type of pipeline;
- h) Aqueducts.

**11. Others:**

- a) Cement factories;
- b) Holiday villages and hotels with a capacity of more than 150 beds;
- c) Manufacture and packaging, loading or transporting of powders and explosives.

## **Appendix 7-2: Projects which require an Impact Statement**

### **1. Agriculture:**

- a) Irrigation projects;
- b) Poultry raising;
- c) Piggeries;
- d) Aquaculture and fish farms;
- e) Reclamation of land from the sea.

### **2. Forest management:**

- a) Reforestation projects over an area between 100 and 999 ha;
- b) Clearing of uncultivated land or semi-natural areas for intensive farming over an area of between 100 and 999 ha.

### **3. Extractive industries:**

- a) Deep drilling (with the exception of soil studies) for: geothermal purposes, waste storage, water supply;
- b) Underground mining of minerals.

### **4. Energy:**

- a) Industrial installations for the production of energy, steam;
- b) Gas and steam pipelines, overhead power transmission lines;
- c) Above-ground storage of natural gas;
- d) Below-ground storage of gas;
- e) Hydro-electric plants.

### **5. Metalwork:**

- a) Stamping, cutting large pieces;
- b) Surface treatment coating of metals;
- c) Boiler making, construction of tanks;
- d) Construction and assembly of motor vehicles and motor vehicle engines;
- e) Shipyards;
- f) Installations for the construction and repair of aircraft;
- g) Construction of railway equipment;
- h) Bottom bottling of explosives;
- i) Calcination plants and metal ores.

### **6. Glass works:**

### **7. Chemical industries:**

- a) Facilities for the storage and production of chemical products.

### **8. Textile, leather, wood and paper factories:**

- a) Washing, degreasing and bleaching wool;
- b) Manufacture of fibreboard, particle board, and plywood;
- c) Fabric dyeing.

### **9. Rubber industries:**

- a) Treatment of elastomer products.

### **10. Infrastructure projects:**

- a) Construction of roads and airports (and other projects are not listed in Annex I (Appendix 7-1));
- b) Tramways.

**11. Modification of projects listed in Annex I (Appendix 7-1), and which previously gave rise to an environmental impact study.**

**12. Planning documents:**

- a) Master plans;
- b) Land use plans;
- c) Concentrated development zones.

## **Appendix 7-3: List of sensitive areas**

Projects located in or near these sites must be subjected to an EIA

1. Protected areas and reserves;
2. Wetlands and mangroves;
3. Sites of scientific, cultural and/or tourism interest;
4. Areas defined as ecologically sensitive;
5. Areas surrounding water supply points;
6. Marine areas under international jurisdiction or other international waters.

## Acronyms

<b>CIAPOL</b>	Ivorian Anti-pollution Centre
<b>CFA</b>	West African Franc
<b>DGE</b>	Directorate-General of Environment
<b>EIA</b>	environmental impact assessment
<b>EMP</b>	environmental management plan
<b>IFC</b>	International Finance Corporation
<b>ISO</b>	International Standards Organisation
<b>MESD</b>	Ministry of Environment and Sustainable Development
<b>NAP</b>	National Adaptation Plan
<b>NCSD</b>	National Commission on Sustainable Development
<b>NDP</b>	National Development Plan
<b>NEA</b>	National Environmental Agency (known as ANDE in French)
<b>NEAP</b>	National Environmental Action Plan
<b>NGO</b>	non-governmental organisation
<b>REDD</b>	Reduction of Emissions from Deforestation and Forest Degradation
<b>SEA</b>	strategic environmental assessment
<b>ToR</b>	terms of reference
<b>UNDP</b>	United Nations Development Programme
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change

## Useful contacts

Department	Ministry	Telephone	Website
Directorate-General: Environment	Ministry of Environment and Sustainable Development	+22-47-5449	<a href="http://www.environnement.gouv.ci">www.environnement.gouv.ci</a>