

Reviewing Environmental Impact Assessment Documents

Day 1

TRAINING WORKSHOPS:

SIEM REAP NOVEMBER 18 – 20, 2015.

SIHANOUKVILLE NOVEMBER 30 – DECEMBER 2, 2015

RATANAKIRI: SEPTEMBER 12-14, 2016

Workshop Objectives

- * where does document review fit within the overall EIA process?
- * current state-of-the-art international approaches to EIA document review.
- * direct proponents on how to design IEE and EIA studies.
- * designing terms of reference for IEE and EIA studies.
- * understanding the linkage between a proponent terms of reference ... the proponent's impact assessment document ... and the structure of an IEE or EIA review.
- * developing templates that can be applied to IEE and EIA document review.
- * applying the IEE/EIA document review template to a sample of real impact assessment documents in a range of industry sectors.
- * writing IEE/EIA review reports.

Seven key principles of EIA to keep in mind

- * proponent bears the cost of application and assessment.
- * public participation at all stages of the process.
- * access to proponent information by civil society and government.
- * transparent process.
- * best available scientific information.
- * clear decision-making.
- * effective compliance and enforcement.

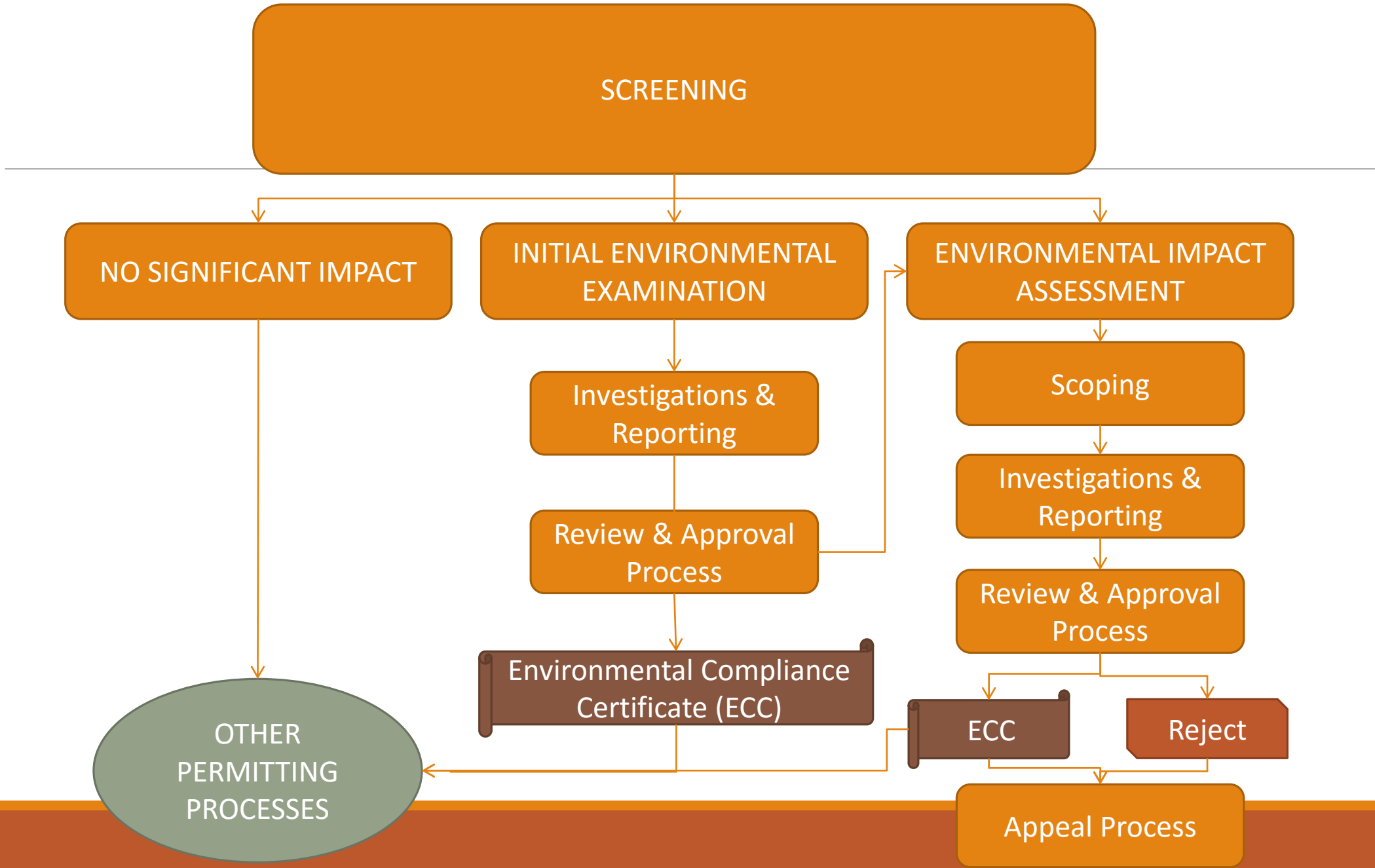
This table shows how an EIA can make a Qualitative Risk Assessment Matrix:

Following this the decision-maker can then apply the principles such as the precautionary principle, intergenerational equity and the polluter pays principle.

			Severity of Consequence				
			1	2	3	4	5
			Catastrophic	Major	Moderate	Minor	Insignificant
Likelihood of Consequence	A	Almost Certain	Extreme	Extreme	Extreme	High	High
	B	Likely	Extreme	Extreme	High	High	Moderate
	C	Possible	Extreme	Extreme	High	Moderate	Low
	D	Unlikely	Extreme	High	Moderate	Low	Low
	E	Rare	High	High	Moderate	Low	Low

Where does the Review step fit within the EIA process?

- * Show next slide.
- * How does this compare to the EIA process in Cambodia?
 - 15 minutes for group discussion and then feedback
- * Task: find all of the sections of the 1999 Sub-Decree where EIA document review is mentioned.



What is the purpose of the EIA review step?

- * assess the adequacy and quality of an EIA report;
- * take account of public comment;
- * determine if the information is sufficient for a final decision to be made; and
- * identify, as necessary, the deficiencies that must be addressed before the report can be submitted.
- * **Q. What do you think should be considered when undertaking a review of an EIA document?**

Aspects for consideration in EIA review

- * compliance with terms of reference;
- * information is correct and technically sound;
- * account taken of public comments;
- * complete and satisfactory statement of key findings;
- * information is clear and understandable; and,
- * information is sufficient for decision-making.

Different procedures that can be used to conduct an EIA review (1)

- * The conduct of EIA reviews is based on both informal and formal arrangements. Marked variations exist in their particular requirements, forms of public consultation and the roles and responsibilities of lead agencies.
- * How to ensure objectivity?
- * Internal reviews versus external reviews.

Different procedures that can be used to conduct an EIA review (2)

internal review - undertaken by the responsible authority or other government agency, with or without formal guidelines and procedure; and

external review - undertaken by an independent body, separate from and/or outside government agencies, with an open and transparent procedure for public comment.

Different procedures that can be used to conduct an EIA review (3)

Internal reviews

- relatively low operating costs;
- discretionary guidance on the conduct of review;
- lack of transparency on process and factors considered; and
- absence of documentation on outcomes and results, e.g. advice tendered to decision-makers.

External reviews

- higher levels of quality assurance;
- independence from the responsible authority (to varying degrees);
- transparent and rigorous process;
- use of guidelines and/or review criteria and methodology;
- documented outcome or statement on the sufficiency or deficiency of an EIA report; and
- separate commission, panel, inter-agency or expert committee or other review body.

Different procedures that can be used to conduct an EIA review (3)

Selected examples of EIA review procedures

- review by environmental agency (Australia)
- review by independent panel or mediator (Canada, only for major proposals)
- review by standing commission of independent experts (Netherlands)
- review by standing commission of experts within the government (Italy, Poland)
- review by inter-agency committee (USA)
- review by planning authority using government guidelines (UK, NZ)
- Cambodia??

Necessary components of good EIA document review (1)

- set the scale/depth of the review.
- select reviewer(s).
- use input from public involvement.
- identify review criteria and aspects to be considered.
- carry out the review.
- determine how to remedy any deficiencies.
- report the findings.

Necessary components of good EIA document review (2)

Set the scale/depth of the review

- How much time is available for the review?
- Are the necessary resources available for the review?
- **Are time constraints put on the Cambodian system?**

Necessary components of good EIA document review (3)

Select reviewer(s)

- The environmental issues and the technical aspects of the proposal will determine the expertise required by a review team or individual. For example, the review of an EIA report for a proposal for a solid waste disposal site might include a landfill engineer, a hydro-geologist and an environmental remediation specialist. Depending on the scale of review, administrative support and technical backup may be necessary.
- Q: Plenary discussion on how reviewers are currently selected. (What happens when a Provincial office does not have the required experience?).

Necessary components of good EIA document review (4)

Using input from public involvement

- public comment is a critical ingredient of good practice.
- checking and evaluating the quality of the EIA report, for example:
 - with regard to the description of the affected environment and community;
 - the attribution of significance of residual impacts;
 - the effectiveness of mitigation measures; and,
 - the selection of an alternative.

Q: how are you using public involvement?

Necessary components of good EIA document review (5)

Identifying review criteria

- A very important part of the technical review.
- We will come back to this later this afternoon.
- Now it is lunch break!

What types of projects are undergoing IEE or EIA in the Provinces?

- * How are proposals “triggered”?
- * Do specific sectors predominate?
- * What are the main environmental or social issues that present themselves?

Activity: groups to answer the above three questions and report to the plenary (1 hour in total)

Plenary discussion on perceived problems with the existing approach to EIA document review in the Provinces

Activity: Groups to discuss this issue and then present to the plenary (45 minutes in total)

Necessary components of good EIA document review (6)

Identifying review criteria

- Structuring a document review is straightforward if the proponent knows what you expect.
- This approach gets the proponent to do the work for you!
- You can either provide this in a project-specific ToR, or a generic ToR, the latter of which can be backed up by sector-specific guidelines.

Environmental aspect	Environmental factor	Potential impacts	Likelihood	Consequence (magnitude)	Inherent risk	Assumptions	Potential mitigation	Likelihood	Consequence (magnitude)	Residual risk	Assumptions	Confidence level	Final risk ranking
Site disturbance/excavation	groundwater	salinization	4	4	low	Unlikely to occur given that mining is above water table, but if it did occur it would result in persistent change (long-term impairment)	Closure strategy to avoid the accumulation of groundwater in pits (i.e. backfilling etc.)	4	4	low		Desktop scoping study has been undertaken. More detailed hydro-geological assessment has been commissioned to describe the groundwater characteristics in greater detail.	low
	Soils and landforms	Changes in landform	1	4	high	Likelihood a certainty. Localized irreversible change (long term)	Minimizing disturbance footprint	1	4	high	Likelihood is still a certainty	Based assessment on knowledge of other similar operations.	high
	Visual amenity	Detraction from the visual qualities/character of the area	1	5	medium	Likelihood a certainty. Some locals will have concern relating to visual amenity	Consultation	1	6	low	Due to the remoteness of the site and lack of public access opportunities it is likely that there will be no issue with visual amenity	Consultation undertaken to date has not addressed visual amenity. Future consultation will address visual amenity. Assessment based on other similar projects.	low

What should be the components/sections of a generic ToR?

- Groups to discuss what a generic ToR would look like (30 minutes)
- Groups to draw the outline of a generic ToR (30 minutes and sample of presentations).

Do we need sector-specific ToRs?

- Examples from Bhutan for “general” (equivalent to generic), forestry, transmission lines, roads, industry, mining, tourism.
- (new addition). Is this adequate as a ToR?
- END OF DAY 1

Reviewing Environmental Impact Assessment Documents Day 2

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Recap from Day 1

- Main points/issues

Carrying out the review

Step 1: Identify the deficiencies

- using the Terms of Reference, relevant guidelines and criteria and information from any comparable EIA reports and their reviews.

Step 2: Focus on critical shortcomings

- focuses on any shortcomings in the EIA report and separate crucial deficiencies, which may directly impede decision-making, from less important ones.

Step 3: Recommend remedial measures

- recommends how, and when, any serious shortcomings are to be remedied to facilitate informed decision-making and appropriate measures for project implementation.

Step 4: Advise on implications for decision-making

- Give either a green (go) or red (stop) or yellow light (conditional acceptance) for the environmental aspects

Step 3: Dealing with remedial options when an EIA report is deficient

- 1. The shortcomings of the EIA report are so serious that they require immediate remedy, either a supplementary or a new EIA report.*
- 2. The shortcomings are not serious and can be rectified by explanatory material attached to the report or conditions attached to the approval.*
- 3. The shortcomings are not major but cannot be remedied immediately, either by providing additional information to the EIA, or in the form of explanations and conditions attached to the decision, because they require too much time and effort to collect.*

Developing review templates: examples

All approaches use some kind of checklist, associated with a scoring/rating system that allows for an overall decision to be made.

We will examine a version developed and applied for reviewing EIA documents in Lao PDR.

This approach may be too detailed for use at the Provincial level in Cambodia. We will work on adapting it.

Developing review templates: Lao PDR example

Uses an “Administrative Review” checklist, and a “Technical Review Checklist”.

Has been applied using a 0 to 3 scoring system where:

- “0” = not applicable
- “1” = non-compliant
- “2” = partially compliant
- “3” = fully compliant

Has also been applied using a slightly different scoring system where:

- FCR = full compliance with requirement
- OFI = opportunity for improvement
- AOC = area of concern
- CF = critical finding

Applying review templates

Applying the drafted review template to a selection of Cambodian IEE/EIA documents.

END OF DAY 2

Reviewing Environmental Impact Assessment Documents Day 3

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Recap from Day 2

- Main points/issues

Reviewing specific sector projects

The Handbook for Reviewers: Basic Elements and Impact Assessment of Industrial Projects

Guidebook for Evaluating Mining Project EIAs

EPA Habitat Evaluation

Bhutan EIA guidelines

Reviewing specific sector projects (continued)

The Handbook for Reviewers: Basic Elements and Impact Assessment of Industrial Projects

Guidebook for Evaluating Mining Project EIAs

EPA Habitat Evaluation

Bhutan EIA guidelines

What happens after document review?

Decision-making

- * Refer back to the EIA process flow diagram.
- * The EIA process was introduced with the express intention of incorporating environmental considerations into decision-making on major proposals. All of those involved in EIA require an understanding of how the decision-making process operates and the particular contribution made by EIA.

Decision-making is a process of:

- political choice between alternative directions
- weighing the benefits and costs
- negotiation, bargaining and trade-offs
- balancing economic, social and environmental factors

Decision-makers need to understand:

- EIA aims and concepts
- EIA legislation, procedure and guidelines
- the effectiveness of EIA practice
- the limitations on EIA information
- how EIA process and practice measure up internationally
- issues of public consultation and third party challenges

Decision-making is a continuing process, comprising:

- * interim decisions made at each stage of EIA
- * final approval of a proposal
- * enforcement of conditions attached to approvals

Information for decision-makers should include:

- * background of the proposal
- * policy context
- * alternatives considered
- * public inputs and balance of opinion
- * significant impacts
- * proposed mitigation and monitoring
- * extent that the proposal conforms to sustainability principles

Outcomes from EIA decision-making:

- * proposal approved
- * proposal approved with conditions
- * proposal on hold pending further study
- * proposal returned for revision and resubmission
- * proposal rejected

Checks and balances on decision-making:

- * no decision taken until EIA report considered
- * findings help determine approval and condition setting
- * public comment taken into account
- * approvals can be refused or withheld
- * conditions can be imposed/ modifications demanded
- * written reasons for the decision
- * right of appeal against the decision

Q: How many of these are present in the Cambodian system?

Means of implementing decisions include:

- * establishing performance conditions
- * incorporating them into legal contracts
- * requiring preparation of environmental management plans
- * incorporating ISO 14001 standards
- * overseeing and monitoring compliance with conditions

Q: Are any of these mechanisms used in Cambodia?

Designing and outcome-based condition document

Draft a condition document for one of the EIAs that we have used during the training workshop.

Review report on EIA

Issue	N/A	Adequately addressed	Not adequately addressed	Comments including reference to EMP
Contents of EIA Report				
Identification of the Project				
Issues raised in public consultation				
Public consultation process including gender				
Relevant issues eg Pollution, Biodiversity				
Waste Management				
Pollution Prevention				

Review report on EIA

Issue	N/A	Adequately addressed	Not adequately addressed	Comments including reference to EMP
Health Impacts				
Cumulative Impacts				
Climate Change Impacts				
Payment for ecosystem services				
Fees and Charges				
Reporting and monitoring				
Dispute resolution and conflict mitigation				

Review report on EIA

Issue	N/A	Adequately addressed	Not adequately addressed	Comments including reference to EMP
Does the project comply with National Environmental Policy?				
Does the project comply with Environment Protection Law?				
Is the EMP 'best-practice'?				
Has the EMP addressed all matters and issues satisfactorily?				
Alternatives				
Amendments to EMP				