

Guidelines

on Public Participation in Environmental Impact Assessment in the Mekong Region

First Edition

Mekong Partnership
For the Environment



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FOREWORD

In 2014, the USAID supported Mekong Partnership for the Environment convened approximately 50 representatives from civil society organizations (CSOs) and government agencies from the five Lower Mekong countries to discuss issues and concerns with Environmental Impact Assessment (EIA), specifically public participation. In that meeting, we actually ran parallel sessions- keeping CSO and government separate. Why? Because so many voices in the region cautioned that it wasn't feasible to have a constructive dialogue among these two groups on such a contentious subject.

But we brought Mekong citizens together and learned a few important things. What came out of the meeting were two sets of priorities- one at the national level and one at the regional level.

What also came out of the meeting was something reassuring. That united around a common agenda, government and civil society are willing to move together toward a solution for change. And from that initial workshop came a commitment from MPE- to foster a regional community of practice to expand cooperation across borders and strengthen effective participation in EIA processes as a means to contribute to sustainable development of the Lower Mekong region. Thus, the Regional Technical Working Group on EIA was established.

Fast forward to now and the release of the First Edition of the Guidelines on Public Participation in EIA in the Mekong Region. This unique resource is the product of intensive collaboration and coordination to address a common challenge of achieving more meaningful and effective public participation in the EIA process. While these guidelines are voluntary, I believe that the approach and practice outlined in the following pages reflect international best practice that can be integrated into a legal framework for the Lower Mekong countries. I believe this because the drafting process and the text of the document are already changing the conversation among governments and constituents. As a first edition, this landmark resource has been reviewed by over 500 persons across the region

and generated over 2200 comments. The multi-stakeholder working group and review process provides this regional guideline legitimacy as the new benchmark for policy and, as such, is being integrated into forward-thinking national policies and the practices of companies and communities.

Over the past two years, the efforts of the 25 members of the RTWG have underlined the importance of examining the whole process of how the decisions for investing in infrastructure are made in the Mekong region. They have offered a concrete product in the form of regional guidelines as part of the solution for good governance of natural capital through stronger social and environmental safeguards which are clear and harmonized to international standards. As regional champions, the men and women from government and civil society are leading in a move beyond the old way of doing business in favor of a model of constructive engagement that will bring the sustainable development needed for future generations of Mekong citizens.



Ms. Christy Owen
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PREFACE

We, the 25 members of the Regional Technical Working Group on Environmental Impact Assessment (RTWG on EIA)¹, a diverse group of citizens representing government and civil society organizations from across the Mekong region countries of Cambodia, Laos, Myanmar, Thailand and Vietnam, have come together to develop this First Edition of the Guidelines on Public Participation in EIA in the Mekong region.

Recognizing our shared resources, we have a common goal to protect the environment in our region. As a result, we have collaborated in order to promote meaningful public participation in EIA as a key means to advance sustainable development and to elevate the importance of the environment as the foundation for sustained economic growth.

Using our individual expertise and practical experiences, together with technical support from national and international experts, we have shared and learned from each other to exchange ideas in a participatory process that has included regional meetings and national public consultations over an 18 month period, resulting in the drafting of these Guidelines.

The Guidelines are intended to contribute to an increased understanding of EIA for all stakeholders so that the benefits of development are shared equitably among all members of society – and so that no one is left behind.

Noting that good practices in EIA are still lacking, these Guidelines are intended to help stimulate more effective practices in public participation. These Guidelines are also playing an important role in informing the development of national level guidelines on public participation in EIA.

This document is intended as a living resource and it is hoped that it will inspire the continued strengthening of EIA policies and practices in each country and across the region, as well as to advance greater regional collaboration and harmonization among Mekong and ASEAN nations.

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REGIONAL **T**ECHNICAL **W**ORKING **G**ROUP ON **EIA**

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1. INTRODUCTION

Environmental Impact Assessment (EIA) is a widely-applied and internationally-accepted process of identifying, predicting, evaluating, and mitigating potential impacts of development projects on the environment and society prior to decisions and commitments being made.²

For the purpose of these Guidelines on Public Participation in EIA in the Mekong Region ('the Guidelines'), the term Environmental Impact Assessment (EIA) has been used in its generic sense. This term takes into account the broad nature of the modern application of EIA, as most countries adopt a definition of EIA that includes an assessment of all significant impacts (direct, indirect and cumulative) on people, the economy, and the environment. While national legislation may refer to slightly different terms, such as Environmental and Social Impact Assessment or Environment and Health Impact Assessment, these are viewed synonymously as variants of EIA. EIA provides a clear reminder of the need for the assessment process to be as complete as possible when considering and assessing all the significant impacts from a project. EIA should focus on the significant impacts of proposed projects. This will allow for the most efficient use of limited resources to focus on issues of concern and not "all" impacts, many of which are insignificant or of minor concern.

EIA procedures are in place in all Mekong region countries – Cambodia, Laos, Myanmar, Thailand, and Vietnam – but critical gaps remain in its effective implementation. These gaps involve a number of factors, including the overall quality of assessments, consideration of alternatives, monitoring and compliance, and meaningful stakeholder engagement, among others. Such challenges result in poorly-designed projects with adverse social and environmental impacts; project delays and conflicts with communities, leading to higher costs for project developers; and an undermining of the long-term sustainable development in the region.

For these reasons, EIA is an issue of common concern among governments, civil society organizations, communities, and business sector actors. This concern is reflected in the current wave of EIA reform efforts currently underway across the region. Another important regional trend includes the emergence of the ASEAN Economic Community (AEC) in 2015. The AEC aims to boost a single regional market and production base, increase competitiveness for the region, promote equitable economic development, and further integrate its ten member states into the global economy. The AEC Blueprint highlights an urgent need to simplify, harmonize, and standardize trade and customs processes to facilitate the free flow of goods, services, and capital across the region. However, without effective social and environmental safeguards in place, increased investments and trade may result in unintended consequences leading to accelerated deterioration of the region's rich natural capital, loss of livelihoods, and other short- and long-term consequences.

Challenges also exist in developing effective mechanisms to assess the environmental and social impacts of projects that may have transboundary impacts, including air pollution, impacts on biodiversity and climate change, and social impacts. The current interest in EIA, along with increasing investments in large-scale development projects in the Mekong region, reflects the importance of advancing EIA policy and practice that addresses the increasingly regional dimensions of investments and their impacts.

Effective involvement of relevant stakeholders in the EIA process can serve as a key means to contribute to addressing these challenges. Engaging with relevant stakeholders in the EIA process – and in particular those directly and indirectly impacted by development projects – increases the efficiency of the process by helping to identify and address key issues and concerns, while ensuring better, more equitable, and more sustainable development outcomes. Public participation serves as the foundation for building strong, constructive, and responsive relationships that are essential for the successful management of a project's environmental and social impacts. For project

2. Key Terms and Definitions used in this document are provided in Annex II.

proponents, building trusting relationships with affected communities is simply good business, as it helps to avoid project delays and potential conflicts, as well as capitalizing on local knowledge to avoid potential pitfalls in project design. Effective EIA with good public participation has been acknowledged to save time and costs on project design and implementation.

Public participation is a process to involve those who are directly and indirectly affected by a decision in the decision-making process, promoting sustainable decisions by providing the public with the information they need to be involved in a timely and meaningful way, and communicating to the public how their input affects the decision. (Source: International Association for Public Participation)

The **purpose** of the Guidelines is to provide practical guidance for implementing meaningful public participation in the EIA process in the Mekong region.

The **audience** for the Guidelines includes EIA consultants and project proponents, as well as project affected people (PAP), government agencies, non-governmental and civil society organisations (NGOs/CSOs), and other stakeholders with an interest in the EIA process and implementation of investment projects.

The **scope** of the Guidelines covers proposed projects within the Mekong countries of Cambodia, Laos, Myanmar, Thailand, and Vietnam that are required to be subjected to EIA processes.

An overall objective of public participation in EIA is to ensure that after all environmental and social impacts from a proposed project are addressed in the EIA report, and reviewed and considered by the decision maker(s), any residual impacts are managed within the Environmental Management and Monitoring Plan (EMMP) for the project. This should also provide options to resolve any disputes or grievances that may arise during site preparation, construction, operation, or closure of the project. Finally, public participation can be used to ensure that there is effective compliance and enforcement of the EMMP and that project commitments and promises are fulfilled.

The Guidelines present a common approach, rooted in the context of the Mekong region, which can strengthen the implementation of public participation and access to information arrangements within existing national EIA frameworks. As such, it is intended as a reference and resource document for strengthening the policy and practice of EIA in the Mekong region, in the context of increasing regional investments and impacts, to help realize sustainable development in the region.

Application of the Guidelines is intended to enhance the efficiency and effectiveness of the EIA process, while reducing risks for both the project and all stakeholders involved, and ultimately resulting in improved, sustainable, and more equitable development outcomes. The Guidelines provide a regional “good practice” approach to public participation in EIA while taking into account existing national laws and guidelines and other international good practice experience.

The Guidelines have been created to provide guidance on public participation in addition to current national policies and practices, but do not replace or supersede national EIA processes. The Guidelines build on an analysis of existing laws and regulations, policies, and guidelines in the Mekong region³ and are intended to contribute to regional harmonization of policies and practices where there are similarities, while also acknowledging differences. Use of the Guidelines should also contribute to meeting the ASEAN Charter objectives “to ensure the protection of the region’s environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples.”⁴

Public participation is an ongoing process that occurs throughout the entire project cycle, from consideration of project feasibility to closure of the project and rehabilitation of the environment. Therefore, the Guidelines provide detailed guidance on public participation within the EIA process, what information should be made available and when, and how it should be made available to different stakeholders.

Following an overview of the EIA process in general (Chapter 2) and highlighting some key principles of public participation (Chapter 3), the Guidelines offer specific guidance for public participation in EIA in each of the key steps of the EIA process where participation is most relevant and significant (Chapter 4). These steps include:

- Step 1: Screening
- Step 2: Scoping
- Step 3: EIA Investigation and Report Preparation
- Step 4: Review of the EIA Report and EMMP
- Step 5: Decision-Making on the EIA Report and EMMP
- Step 6: Project Monitoring, Compliance and Enforcement

By organizing the Guidelines in this way, they are intended to serve as a practical manual for EIA practitioners throughout the EIA process.

As the Guidelines are focused on the EIA process, they do not specifically cover other aspects of the project development cycle, such as the broader policy or strategic level, or during pre-feasibility studies before the EIA process begins. However, many of the principles and practices discussed in the Guidelines could be applied to other decision-making processes outside of the formal EIA process (e.g. Strategic Environmental Assessment).

3. Mekong EIA Briefing: Environmental Impact Assessment Comparative Analysis In Lower Mekong Countries
http://www.pactworld.org/sites/default/files/local-updates-files/MPE_Mekong_EIA_Briefing_Final.pdf
Also see summary in Annex III.

4. ASEAN Charter Article 1(9)

2. OBJECTIVES AND KEY PRINCIPLES OF EIA SYSTEMS: CONTEXT FOR PUBLIC PARTICIPATION

EIA is internationally recognized as an important tool to assess and analyze the potential impacts of proposed development projects on the environment and society and to develop ways to avoid, mitigate, and manage those potential impacts. It is also seen as a process to identify and respond to key concerns by PAP and other stakeholders. Effective EIAs can help avoid or mitigate social conflicts that may otherwise arise from a project that is developed with limited forewarning or involvement of local communities to consider their needs and concerns.

The entire EIA process, inclusive of effective public participation as described in these Guidelines, must be completed before any formal approval is given for a project proposal. This is critical given that one of the main objectives of EIA is to ensure that negative impacts of proposals are avoided or mitigated before they arise. Therefore, project construction or implementation activities should not be carried out prior to the completion of the EIA process.

2.1 OBJECTIVES OF EIA

The key objectives of EIA are:

- To ensure that environmental considerations are explicitly addressed and incorporated into the development decision-making process;
- To anticipate and avoid, minimize, or offset the adverse significant biophysical, social and other relevant effects of development proposals;
- To protect the productivity and capacity of natural systems and the ecological processes which maintain their functions; and
- To promote development that is sustainable and optimizes resource use and management opportunities.⁵

When responding to identified significant adverse impacts of a project, the EIA needs to propose strategies to limit negative impacts on the environment, society, individuals and the economy. These strategies are commonly referred to as mitigation measures, but should be understood and proposed more comprehensively in terms of the mitigation hierarchy. The mitigation hierarchy, depicted in the figure below, is most widely applied to the management of risks and impacts on biodiversity and ecosystem services, but is applicable to all significant impacts of a project proposal. It recognizes that the management of risks and impacts is most effective and efficient if it follows the logical sequence of:⁶

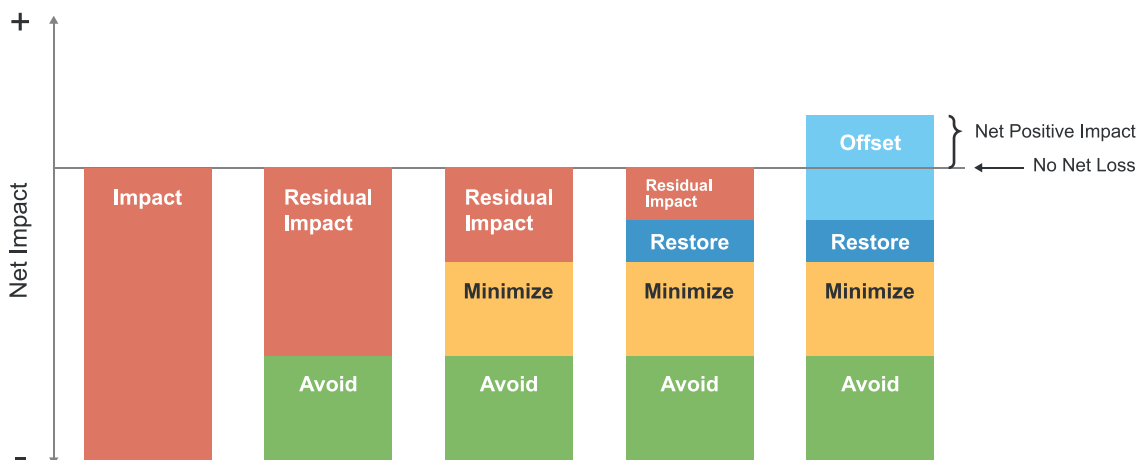
- First – avoiding impacts before they can occur;
- Second – when avoidance is not possible, minimizing the duration, intensity, significance and/or extent of impacts;
- Third – when impacts occur, rehabilitating or restoring the environment, site and/or communities; and
- Finally – where significant impacts remain, offsetting or compensating those impacts.

In cases where the impacts cannot be sufficiently mitigated, the proposed project may not be permitted to proceed.

5. International Association for Impact Assessment (1999). Principles of Environmental Impact Assessment Best Practice, http://www.iaia.org/uploads/pdf/principlesEA_1.pdf

6. The Biodiversity Consultancy (2015). A Cross-Sector Guide for Implementing the Mitigation Hierarchy, Cross Sector Biodiversity Initiative.

Figure 1: The mitigation hierarchy⁷



2.2 KEY PRINCIPLES OF EIA

The effectiveness of EIA as a decision-making tool depends on the application of the following key principles:

1. Legally established, clear and effective process
2. Proponent bears cost of application and assessment
3. Meaningful public participation at all steps of the process
4. Access to information by PAP and other stakeholders
5. All relevant information is available
6. Open and evidence-based decision making
7. Effective monitoring, compliance and enforcement

Legally established, clear and effective process

A specific legal framework is important for the establishment and functioning of the EIA system within each jurisdiction. EIA therefore needs to be underpinned by a clear legal requirement, which outlines the process to be followed. This provides certainty for all stakeholders – including PAP, the project proponent, the EIA consultant, government regulators (not just environmental), and other interested parties – and consistency in approach over time. Such certainty and consistency helps ensure accountability in the system. Following a legal process that is widely understood also reduces the potential for disputes to arise once a decision is ultimately made.

Proponent bears cost of application and assessment

The EIA process is an investment of the project proponent in the design, planning, and management of the project, especially for major development proposals that involve many aspects and phases. Consistent with the “Polluter Pays Principle,”⁸ the project proponent should bear all costs associated with the EIA process, including for the provision and implementation of public participation in their project. Public participation is a required element of the EIA process and the project proponent and EIA consultant must ensure that the budget is sufficient to cover the public participation. Therefore, there should be a timeframe with deadlines for submission indicated.

7. Adapted from The Biodiversity Consultancy, Mitigation Hierarchy, <http://www.thebiodiversityconsultancy.com/approaches/mitigation-hierarchy/>
 8. The Polluter Pays Principle supports the commonly-accepted practice that those who produce pollution must bear the costs of managing it to prevent damage to human health or the environment

The general public should not have to bear the costs of participating in the EIA process, or for government reviews of EIAs. All of these costs, including travel costs, need to be included in the overall EIA budget covered by the project proponent. The EIA will also likely result in a range of monitoring and management duties should the project proposal proceed to implementation, some of which may involve affected communities. The project budget should provide enough funding for these activities too – whether they are undertaken internally, by an external third party or by community representatives. All of these expenses associated with undertaking an EIA and implementing the endorsed EMMP are understood to be part of the normal costs of doing business.

Meaningful public participation at all steps of the process

An effective EIA process can help to reduce the risk of social conflict arising from projects by ensuring that all PAP and other stakeholders are involved, valued, and respected in the decision-making on development proposals. To be effective in this regard, public participation needs to occur in a structured and planned way throughout the EIA process (and throughout project implementation and operations). Efforts to involve the public must also be meaningful, not tokenistic nor undertaken to complete a regulatory requirement. Public participation must be tailored to the particular needs and circumstances of the participants, with special attention to assure gender equality as well as particular interests and needs of women and vulnerable groups.

Access to information by PAP and other stakeholders

To effectively participate in the EIA process and make an informed decision on a project's impacts, PAP and other stakeholders must have access to all relevant information. This includes access to technical information. Information needs to be provided in a form and language that is easily accessible and can be used by the target audience, and with sufficient time for it to be understood, considered, and responded to.

All relevant information is available

For an EIA to be a useful planning and decision-support tool, it needs to be based on all relevant information. This includes scientific information as

well as local and indigenous knowledge, which can only be obtained through genuine and meaningful public participation. Identifying all relevant information involves a balance between relying on the most up-to-date and comprehensive knowledge and what can be feasibly (and affordably, in the context of the particular development proposal) obtained.

Open and evidence-based decision making

An effective EIA process requires the preparation of an EIA by the project proponent (and/or the EIA consultant) and the review of the EIA by government (and/or their expert panel), to determine whether the project should proceed or not, and if it is to proceed, what mitigation measures are needed. This process needs to be conducted transparently and on the basis of sound analyses. The government's review of the EIA should be separate from the EIA preparation work and may need to involve a technical review, along with inputs from the public participation process. The ultimate decision on whether or not to approve the EIA and the project should be made according to the evidence contained in the EIA report and in public submissions made to the government. The entire review and decision-making process should be transparent, with the general public able to follow and provide input into the process and access the ultimate decisions and reasoning.

Effective monitoring, compliance and enforcement

The EIA process formally ends with a decision, but an approved EIA report and its EMMP are critical instruments for ensuring the project's impacts are addressed in the way intended when it was approved. It is vital for the overall integrity of the EIA system that government and other external parties, including the local community, are able to monitor the performance of projects and ensure they comply with all commitments and duties contained in the EIA report and EMMP. This includes having access to monitoring information as well as the opportunity to undertake monitoring activities themselves. The monitoring mechanisms and findings adopted within a project must be made publicly available for all stakeholders to have confidence in both the project at hand and all future EIAs. Monitoring is critical to ensure that any adverse residual impacts are no greater than indicated at project approval, and to identify any additional mitigation measures that might be needed.

2.3 ROLES AND RESPONSIBILITIES OF KEY STAKEHOLDERS IN EIA AND PUBLIC PARTICIPATION

Table 1: Key actors in EIA processes

Stakeholders	Roles and Functions in the EIA process
<p>EIA authority</p>	<ul style="list-style-type: none"> • Oversee and implement the EIA framework, including: <ul style="list-style-type: none"> - Establishing and maintaining relevant environmental standards - Setting expected public participation processes - Maintaining and updating the screening register (or equivalent mechanism for categorization of projects for screening purposes) - Registering or otherwise authorizing consultants to act as EIA consultants • Maintain records of all project proposals undergoing EIA processes. • Make the screening decision. • Make a decision on the scoping report and draft terms of reference including public participation plan. • Review EIA reports and make recommendations to the decision-maker. • Facilitate public participation processes as an integral part of the EIA report review step. • Issue or facilitate the issuance of environmental permits to proceed. • Maintain records of all submissions made to the government by stakeholders during the EIA process and how they were considered in the decision-making steps. • Provide the EIA decision to PAP and other stakeholders.
<p>Project proponent</p>	<ul style="list-style-type: none"> • Initiate project proposal. • Initiate and comply with entire EIA process, and its terms and conditions, especially with public participation. • Engage EIA consultant. • Fund all aspects of the EIA, including public participation in all steps of the EIA process and mitigation and compensation of impacts. • Contribute to and endorse submitted EIA, including its: <ul style="list-style-type: none"> - compliance with laws, regulations and terms of reference; - accuracy and completeness; and - approach to public participation. • Participate in public participation processes with EIA consultant as necessary. • Publicly release all relevant information on the project proposal and EIA. • Implement all commitments during the EIA process and EMMP. • Manage and be fully responsible for their development activities and associated social and environmental impacts.

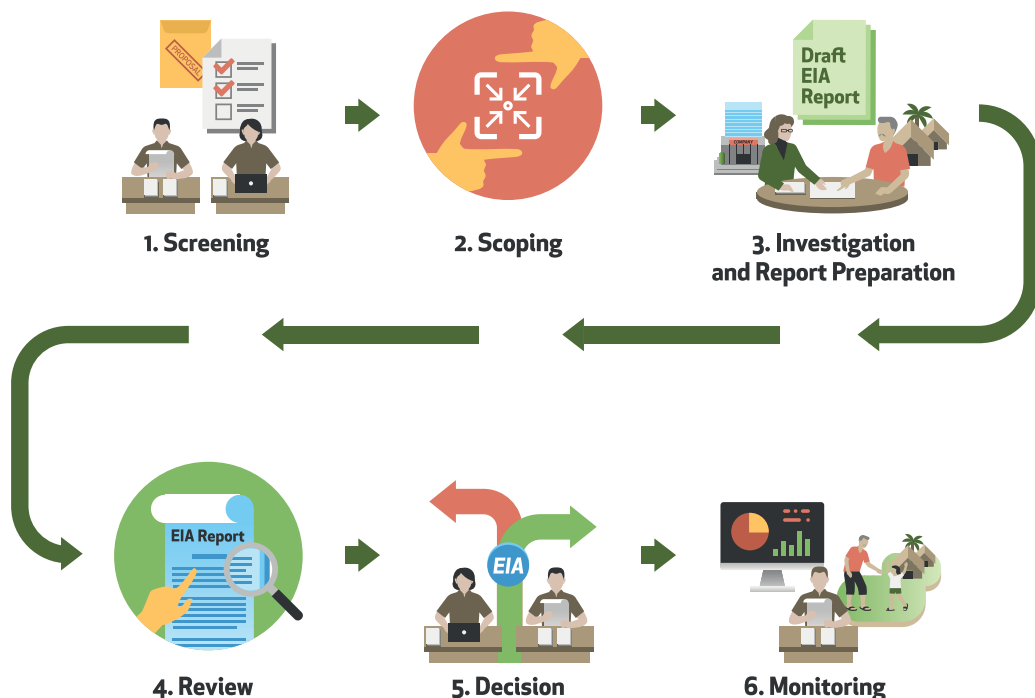
Stakeholders	Roles and Functions in the EIA process
EIA consultant	<ul style="list-style-type: none"> • Lead EIA processes (often the scoping and EIA investigation and report preparation steps). • Liaise with PAP and other stakeholders. • Propose and negotiate with the project proponent alternatives and impact mitigation measures. • Prepare and lead public participation processes up until EIA report is submitted. • Participate and facilitate as required in public participation processes at the EIA report review and decision steps. • Maintain records of all submissions made to the project proponent and EIA consultant by stakeholders during the EIA process, including a record of how they were addressed in the EIA report.
Project affected people (PAP)	<ul style="list-style-type: none"> • Be aware of project proposals in areas that could affect them. • Read and consider information about project proposals that could affect them. • Engage, as much as practicable, with project proponents, EIA consultants, other PAP, and other stakeholders regarding project proposals. • Help identify potential risks and impacts of project proposals, as well as possible project alternatives and impact avoidance strategies. • Provide local or indigenous knowledge that may not be documented. • Identify and communicate community needs, desires, and expectations from project proposals. • Make submissions and comments to the project proponent, EIA consultant, and EIA authorities. • Monitor the project and impacts during the implementation stage.
Other stakeholders (including: local, national and regional NGOs; civil society organizations (CSOs); women's groups; government line agencies; industry and trade associations; media; academics; regional institutions)	<ul style="list-style-type: none"> • Contribute technical knowledge and expertise to EIA processes. • Provide access to environmental and social databases. • Assist PAP and other stakeholders to understand concepts and participate in EIA processes. • Disseminate information about project proposals and EIA processes. • Make formal submissions and comments to the project proponent, EIA consultant, and EIA authorities.
Neighboring country governments (for projects with potential transboundary impacts)	<ul style="list-style-type: none"> • Notify neighbors of project proposals with potential transboundary impacts and implement appropriate transboundary EIA arrangements. • Participate in transboundary EIA processes regarding project proposals in neighboring countries with potential transboundary impacts. • Facilitate public participation from citizens in transboundary EIA processes regarding project proposals in neighboring countries with potential transboundary impacts. • Share information about local practices, concerns, and needs regarding project proposals, impacts, mitigation measures, and management.

2.4 KEY STEPS OF EIA AND PUBLIC PARTICIPATION

EIA systems and project development in the Mekong region generally follow a consistent, sequential implementation process. The following steps are identified as key parts of the EIA process where public participation is particularly relevant:

- 1. Screening** - the process of reviewing a project proposal to determine whether an EIA, or any other form of environmental assessment, is required before the final decision.
- 2. Scoping** - the process to determine the scope of the EIA and the data needed to be collected and analyzed in order to assess the impacts of the project proposal on the environment, which results in establishing a terms of reference (ToR) for the EIA.
- 3. EIA Investigation and Preparation of an EIA Report** - the step that involves identifying and evaluating potential impacts and risks of a project proposal.
- 4. Review of EIA Report and EMMP** - consideration of the EIA report by the relevant EIA authority.
- 5. Decision-making on the EIA Report** - the formal decision made by the lawfully determined decision-maker (typically the EIA authority) about whether to approve an EIA report (and associated documentation, including the EMMP) or not, noting that other regulatory permits, licenses or approvals may also subsequently be required for the project proposal to proceed to implementation.
- 6. Monitoring, Compliance and Enforcement** - direct and indirect activities, undertaken internally or externally, to identify actual activities, impacts and overall performance of a project and the comparison of these findings to commitments in the EIA report and EMMP.

Figure 2: Key steps in the EIA process



Best practice for each of these steps provides for participation by PAP and other stakeholders. These six steps are therefore used as the key focal areas for the organization of these Guidelines.

It should be noted that many EIA systems employ two levels of environmental assessment, depending on the nature, size, and scale of the project proposal and the extent of its potential impacts. The first level is referred to in a number of Mekong region countries as an Initial Environmental Examination (IEE) and can be used instead of, or preceding, an EIA. In general terms, the main distinction between IEEs (or their equivalents) and EIAs is that IEEs are more streamlined and shorter processes than full EIAs. Both IEEs and EIAs should involve meaningful public participation throughout the processes, but the nature of the public participation mechanisms may be different depending on which level of environmental assessment is followed. These Guidelines address public participation in full EIAs because they are the more comprehensive form of assessment – regularly involving more steps than IEEs – and because project proposals subject to EIAs generally have the greater potential risks and impacts, making public participation even more important.

3. GENERAL PRINCIPLES OF MEANINGFUL PUBLIC PARTICIPATION

3.1 BACKGROUND TO PUBLIC PARTICIPATION AND ITS BENEFITS

Public participation, also referred to as stakeholder engagement, is an integral part of the environmental assessment process. Internationally, public participation has been specifically identified in the 1992 Rio Declaration on Environment and Development as a central principle of sustainable development and has been accepted as a core part of EIA since the beginning of EIA in the 1970s.

Principle 10 of the Rio Declaration

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.⁹

Some benefits of meaningful participation are difficult to quantify, such as better decision-making or the development of greater trust in government agencies. Other benefits, such as better project design, efficient environmental management or an effective grievance process, may also be difficult to measure but can provide real benefits to the communities affected by development.

3.2 KEY PRINCIPLES FOR MEANINGFUL PUBLIC PARTICIPATION

Meaningful public participation begins early in the EIA process and is ongoing throughout the life of the project. It is an inclusive, accessible, and timely process, undertaken in an open manner. It involves providing comprehensive information that is understandable and readily accessible to stakeholders in a culturally-appropriate manner and therefore enables the consideration of stakeholders' views as part of decision-making. Meaningful public participation should be conducted in a manner commensurate with the risks of the proposed project and the potential impacts on those affected by the project.

There are several key elements of meaningful public participation:¹⁰

- Public participation in the EIA process must be planned: a plan must be developed for even the most simple and straightforward EIAs.
- Public participation is not something that happens towards the end of the EIA procedure; it needs to be part of the whole process from onset to conclusion.
- Public participation involves conducting the EIA process in a way that ensures all relevant information is captured and is not distorted.
- There is a need to tailor methods for public participation. This means accommodating and adjusting to different stakeholder roles and interests, types of knowledge, and cultural differences.

9. United Nations Conference on Environment and Development, Rio de Janeiro, Braz., June 3-14, 1992, Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26/Rev.1 (Vol. I), Annex I (Aug. 12, 1992), Principle 10.

10. Adapted from IAIA (2015) "Effective Stakeholder Engagement," IAIA Fastips, No. 10 (revising 'IA' to 'EIA'). http://www.iaia.org/uploads/pdf/Fastips_10EffectiveStakeholderEngagement.pdf

Good Practice Example – Maintaining Ongoing Communication

An energy company based in Thailand, with operations around the region, sees the value in regular and reinforcing communication with local communities. “Solving conflicts before they happen is good for business. It helps companies to develop new products and services.” The company began initial engagement before the project bidding was released in order to initiate stakeholder relationships. From there they determined the frequency of engagements in order to enable regular communication with stakeholders on key issues. The frequency of meetings was then adapted as needed. Additionally, messaging and engagements are reinforced through a variety of communication methods, such as tri-partite committee meetings, EIA monitoring committee meetings, plant visits, and other formal and informal communication channels.

3.2.1 Properly planning public participation processes

The project proponent and the EIA consultant should develop, in consultation with PAP, vulnerable groups, and interested stakeholders, a public participation plan. This plan, also called a “stakeholder engagement plan,” is the roadmap or guide to the involvement and consultation that will occur during the EIA process, including with those people who are both directly and indirectly affected by the project. The public participation plan needs to be tailored to fit the particular project proposal, local environment, and communities involved. It should set out a clear framework of activities, and allocate roles, tasks, and goals to individual members of the EIA consultant’s team. It should serve as a guiding document throughout the EIA process by specifying objectives, audiences, messages, tools, timeframes and budget available. To be effective, the public participation plan must also be frequently reviewed and updated. A sample template for a public participation plan is provided in Annex IV.

Four key principles are central to achieving meaningful public participation:

1. Properly planning public participation processes;
2. Identifying PAP and other stakeholders;
3. Giving special attention to vulnerable groups; and
4. Allowing sufficient time for meaningful public participation throughout the process.

The public participation plan also needs to balance broadcasting (informing) and receiving (listening, understanding, discussing) information. Stakeholders, as well as the project proponent and EIA consultant, need opportunities for both 'broadcasting' and 'receiving' information. The plan also needs to take account of the fact that different stakeholders need to be involved in different ways using different communication tools. In this context, the IAIA has identified some "essential ingredients of engagement planning":¹¹

- Determining and profiling stakeholder groups.
- Selecting the rules of engagement and the etiquette that will be observed.
- Describing the events that will occur throughout the process — stating places, times, goals, involved groups, content, and medium of communication.
- Allocating essential resources: budget, communication tools, technical support, spokespersons, and suitable premises.

The resources to be allocated according to the public participation plan include time, as well as financial resources. Following the provision of information, all stakeholders will require time to absorb, process, and formulate responses to the proposals, information, and concepts presented. Some groups will need more time than others, and some groups will require different forums or need to consult with other members of the community. Specific plan elements should address engagement with women and vulnerable groups. One generally useful strategy is to invite participants to put forward any matters or questions they wish to have addressed in the meetings in advance (e.g. by email, letter or verbally to the EIA consultant). Regardless of the mechanisms adopted, the public participation plan must allocate sufficient time throughout the EIA process, based on the particular needs of the identified stakeholders.

The public participation plan should also consider how the EIA consultant and project proponent can most effectively communicate in a manner that is appropriate to the targeted audience, taking into account important matters such as cultural sensitivities, language constraints, and formal education levels of the participants. Consultations should be held in venues and at times convenient for local stakeholders, such as during times when

community members are free from agricultural work and at times convenient for the participation of women. Attention should be given to selecting spokespeople based on their empathy, presence, experience in communication, and credibility with participants, as well as on their content knowledge and technical expertise. It is critical that all communication is based on respect, an open-mind, and a willingness to listen to and learn from participants. In addition, the establishment of a grievance mechanism will help to facilitate ongoing communication throughout the EIA process and project implementation.

As noted above, a key principle of effective EIA systems is that the proponent bears all the associated costs. This includes support for implementing meaningful public participation – the proponent must bear all the costs of public participation at all steps in the EIA process. This includes costs incurred by the EIA consultant and those incurred by the EIA authority in undertaking public participation during the review and decision-making on an EIA report. Therefore, the public participation plan must clearly identify the costs of its implementation and be budgeted accordingly. Irrespective of the budget, the priority is on meaningful public participation with quality outcomes. The project proponent should avoid the temptation to cut costs on public participation, as the cost of subsequent delays and conflicts may outweigh the apparent cost savings.

11. IAIA (2015) "Effective Stakeholder Engagement," IAIA Fasttips, No. 10.

3.2.2 Identifying PAP and other stakeholders

It is critically important to identify PAP and other stakeholders specific to the project proposal in question, and to then identify and document their various interests and information needs, because:

- each project proposal will involve a different set of PAP and other stakeholders;
- different PAP and other stakeholders will be impacted in different ways (e.g. women may be impacted differently than men);
- different sets of PAP and other stakeholders may be relevant at different steps of an EIA process; and
- the same stakeholders may also be impacted in different ways as a result of different projects in similar locations.

Why Gender Matters

Women may be impacted by a proposed project differently than men or other groups in the community. Women's roles as caretakers of the family also give them a different relationship with nature and the environment as well. It is therefore important that these different perspectives, needs, and concerns be identified and addressed. This may also help contribute to improved project outcomes.

As an example, when women participated in the public meetings on proposed resettlement plans of a hydropower project in Vietnam, this led to changes in the proposed resettlement sites in two of the four communes. While the new sites were smaller, they had more fertile land and cleaner water resources, as identified by the women participants. It is therefore important that the insights and knowledge of women be fully explored and utilized.

Stakeholder identification must be done as early as possible in the EIA process in order to:

- ensure successful contact;
- allow for the ongoing identification of additional stakeholders;
- build respect and trust;
- ensure sufficient budget is allocated for public participation; and
- maximize time available for explanation and consideration of stakeholder-specific issues, and for data gathering.

Part of the stakeholder identification process is to establish lines of communication between different stakeholder groups and the project proponent and EIA consultant. This may include allowing stakeholder groups to appoint spokespersons if they wish.

It is also important to recognize that EIA is an inclusive process. Often, people and groups will express an interest in a project proposal and EIA, but the project proponent may not think they are particularly relevant. However, anyone who believes they have an interest has a right to express their opinions and perspectives. It is important that public participation processes do not limit the types of stakeholders that are able to participate.

A list of potential stakeholders is provided in the table below.

Table 2: List of possible stakeholders¹²

Stakeholder group	Illustrative examples
PAP	<ul style="list-style-type: none"> • Land owners, users, and residents. • Indigenous peoples and ethnic groups in and around the affected area. • Vulnerable groups including women, children, elderly people, disabled people, resource dependent groups, and low-income people. • Communities in neighboring countries where transboundary impacts may be an issue. • Other individuals, organizations, businesses, etc. likely to experience environmental or social impacts due to the project.
Government Authorities	<ul style="list-style-type: none"> • National, provincial, district and local authorities. • Authorities responsible for pollution control including water, waste, soil, noise and air pollution. • Authorities responsible for protection of nature, cultural heritage and the landscape. • Health and safety authorities. • Land use control, spatial planning and zoning authorities. • Government departments responsible for agriculture, energy, forestry, fisheries, etc. whose interests may be affected. • Authorities in neighboring countries where transboundary impacts may be an issue.
Other Stakeholders	<ul style="list-style-type: none"> • Local, national and international environmental, social, and development interest groups. • International agencies whose interests may be affected. • Local employers' and business associations such as Chambers of Commerce, trade associations, etc. • Civil Society Organizations such as Women's, Groups, Youth Groups, local community groups, resident groups, etc. • Groups representing users of the environment, e.g. farmers, fishermen, women using local resources for own consumption and trade, tourism operators. • Research institutes, universities, and other centers of expertise. • The local and national media. • Elected representatives and community figures such as religious leaders or teachers. • Scientific community, researchers, and academics. • General members of the local and wider public.

12. Adapted from Laos' EIA Guidelines, MONRE, 2012

3.2.3 Giving special attention to women and vulnerable groups

The identification of stakeholders also needs special consideration of vulnerable groups, particularly within the local community, and any particular needs they may have to maximize their ability to participate effectively. This includes consideration for facilitating the participation of indigenous peoples and/or ethnic groups that use other languages or dialects, women, people with disabilities, those below the poverty line, the landless, and representatives of children and the elderly. Additional support may be needed to ensure the participation of these groups.

Development of the public participation plan should include specific approaches and strategies for engaging women and other vulnerable groups. Many tools and resources are available, for example, gender impact assessment. Gender impact assessment is a process which helps decision-makers and stakeholders understand what changes and results may emerge based on a specific project. It aims to help ensure that power relations between men and women – many aspects of which may be exacerbated by the project – are understood so that more equitable outcomes can be realized, and so that women in particular, given their greater vulnerability to project impacts, can be better off than before the project.

While the ultimate decision on the EIA for a project proposal is the government's responsibility, project proponents may determine to apply the principle of "free, prior and informed consent" (FPIC) for a specific project. The principle of FPIC is intended to apply primarily to indigenous peoples' rights and interests in land and resources and is articulated in the United Nations Declaration on the Rights of Indigenous Peoples.¹³ It aims to provide indigenous peoples with self-determination over their lives, lands and resources, including regarding decisions on development projects that might affect them. The application of FPIC is most often raised in the context of project proposals that, without consent, would involve the involuntary displacement and resettlement of indigenous PAP and/or loss of productive, income-generating, or subsistence assets by indigenous PAP. The application of FPIC is one clear way that indigenous PAP are given voice in EIA. The FPIC principle recognizes that indigenous peoples have specific rights that should be respected.

3.2.4 Allowing sufficient time for meaningful public participation throughout the process

Each project will need careful consideration of how much time is required for public participation at each step of the EIA process. Insufficient time allowed may result in ineffective public participation and become a source of conflict. This is why the public participation plan must set up an agreed timeline to be incorporated as part of the EIA consultant's ToRs and for the government review procedure.

Time must be allowed for PAP and other stakeholders to consider the information and to prepare questions for the EIA consultant and the project proponent. As EIAs are conducted for projects that are likely to have a significant impact on the environment, the preparation of an EIA may take many months or even years. The time for public participation should be integrated into the entire EIA process.

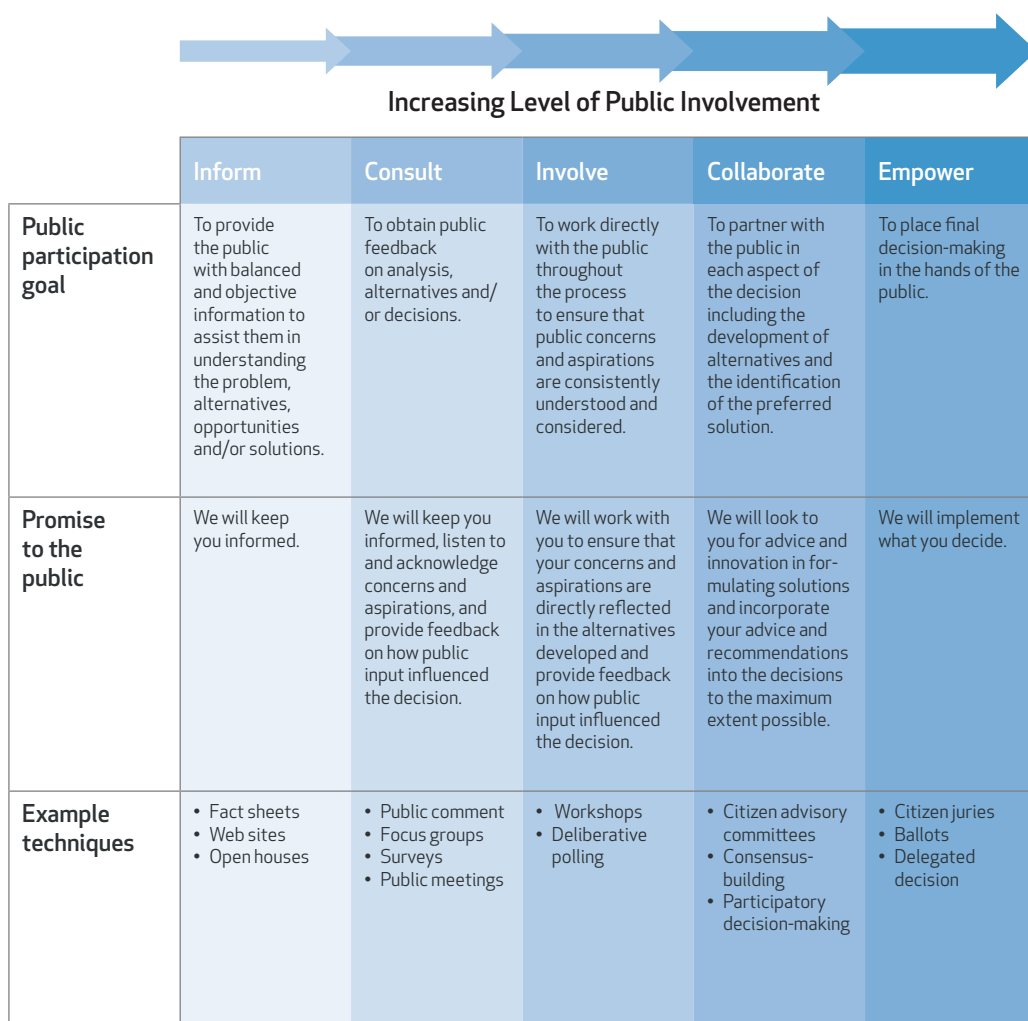
13. UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

3.3 SPECTRUM OF PUBLIC PARTICIPATION

The understanding and application of public participation objectives, approaches, methods, and practices has increased significantly over time. Given this broad range, choosing the most effective and relevant approach can be difficult.

The International Association for Public Participation (IAP2) has developed a spectrum to provide a general framework for public participation, as shown in Figure 3 below.

Figure 3: Spectrum of public participation



(Source: International Association of Public Participation)

Applying this spectrum to EIA, the level of public participation employed should be commensurate with the overall goal and tailored to the specific project circumstances. The level of participation will therefore vary throughout the different steps in the EIA process, depending on the specific aim

for public involvement at that step. The minimum range of public participation that is recommended to achieve meaningful participation at each step of the EIA process is summarized in Figure 4 below and further detailed in the EIA steps sections of the Guidelines.

Figure 4: Suggested minimum level of public participation at each EIA step

	Level of Participation				
	Inform	Consult	Involve	Collaborate	Empower
Public participation goal	To provide the public with balanced and objective information to assist them in understanding the proposed activity, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To negotiate final decisions between the public and decision-makers
Screening	→				
Scoping		→			
Investigation and Report Preparation		→			
Review		→			
Decision	→				In some situations, such as where FPIC is applied
Monitoring		→			

As noted, the appropriate level of participation should be tailored to the specific objective at each EIA step. For example, to aid in achieving the objective of scoping (e.g. developing the ToR for the EIA), the minimum level of participation needed would range from 'consult' to 'involve' to

'collaborate'. While stakeholders will certainly need to be 'informed' before they can be consulted or collaborate, this level is below the minimum needed to ensure meaningful participation and is therefore not highlighted in the figure above.

3.4 PUBLIC PARTICIPATION IN EIA IN A TRANSBOUNDARY CONTEXT

Transboundary impacts are likely to increase in the Mekong region and best practice dictates that public participation should extend beyond national borders whenever there is potential significant impact to a neighboring country.¹⁴ There is ample international guidance on how to address public participation in a transboundary context, especially from European experience. Project proposals with potential transboundary impacts have some unique public participation issues. How project proponents engage stakeholders in neighboring countries will require the involvement of the national governments, as well as a range of diplomatic and legal considerations.

There is recognition under international law that all countries have an obligation to “undertake an environmental impact assessment where there is a risk that the proposed [project] may have a significant adverse impact in a transboundary context, in particular, on a shared resource.”¹⁵ The International Court of Justice has recognized that this principle extends to the need for EIA processes to engage with affected neighboring countries.

In the Mekong region, there are various agreements and mechanisms for considering transboundary environmental issues. National EIA procedures in Cambodia, Laos, and Myanmar include reference to transboundary impacts.¹⁶ However, no formal regional agreement for a transboundary EIA framework exists yet in the region. The 1995 Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (the Mekong Agreement) requires member countries to provide notification and have prior consultations to discuss transboundary impacts for water projects in the Mekong River Basin that may have an impact on neighboring countries, before any commitment is made to proceed.¹⁷ There is ongoing work on the creation of a transboundary EIA system by the Mekong River Commission (MRC). A proposed system was developed for the MRC by ERM and reviewed by the Environmental Law Institute, which is still under development by the MRC.

The potential for adverse transboundary environmental impacts is recognized across the Mekong region, as well as the broader ASEAN region, especially in relation to water resources development, transport of dangerous goods, biodiversity loss, and transboundary haze. For example, the Asian Development Bank’s Greater Mekong Subregion Core Environment Programme specifically addresses concerns over the likely transboundary effects of infrastructure development in the region.¹⁸ Other cross-border institutional developments include a Greater Mekong Railway Association, Regional Power Coordination Centre, and Mekong Tourism Coordination Office, among others. The ASEAN Agreement on Transboundary Haze Pollution (2002) requires ASEAN countries to cooperate in developing and implementing measures to prevent, monitor, and mitigate transboundary haze pollution by controlling sources of land and/or forest fires, development of monitoring, assessment and early warning systems, exchange of information and technology, and the provision of mutual assistance.¹⁹ They must also respond promptly to a request for relevant information sought by a country that is or may be affected by transboundary haze pollution, with a view to minimizing the consequences.

Although there is no regional legal framework for transboundary public participation in EIAs for proposed projects that have transboundary impacts, some lessons can be taken from international experience elsewhere in consideration of current good practice.

14. The list of activities likely to have transboundary impacts, for which notification is required under the Espoo Convention, is defined in Articles 2 and 3 and Appendix I List of activities. http://www.unece.org/env/eia/about/eia_text.html#appendix1

15. Pulp Mills Case (Provisional Measures) (Argentina v. Uruguay) International Court of Justice Reports 2006, p.204.

16. Cambodia’s new draft Environmental Code, Book 2 includes a requirement for transboundary impact assessment. Laos Ministerial Instructions on ESIA No 8030 (17 December 2013) Section 1.2 includes a requirement for transboundary impact assessment. Under Myanmar’s 2015 EIA Procedures, s.28 requires that the Screening decision to require an EIA must consider any likely transboundary impacts.

17. Mekong River Commission, Transboundary EIA, <http://www.mrcmekong.org/about-mrc/programmes/environment-programme/transboundary-eia/>

18. The CEP is Administered by the Asian Development Bank and overseen by the environment ministries of the six countries that form the Greater Mekong Subregion Working Group on Environment - <http://www.adb.org/countries/gms/sector-activities/environment>

19. http://haze.asean.org/?wpfb_dl=32

The Economic Commission for Europe has adopted a Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (the ECE Guidance) to support the two key European intergovernmental agreements on EIA and public participation – the 1991 Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) and the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention).²⁰

The Espoo Convention is a preventative mechanism to avoid, reduce, and mitigate significant environmental impacts intended to help make development sustainable by promoting international cooperation in assessing the likely impact of a proposed activity on the environment. It applies, in particular, to activities that could impact the environment in other countries.

The ECE Guidance identifies a number of key good practices for public participation that have relevance to the Mekong region countries:

- Financial support may be needed to: translate the EIA documentation into the language(s) of the affected country; translate the public comments and recommendations back into the language of the country of the project proposal; disseminate EIA materials (including booklets, brochures) within the neighboring country; pay for information distributed through newspapers, radio, TV, e-mail or Internet; and organize public consultation meetings.
- Neighboring countries should be notified of project proposals with potential transboundary impacts as early as possible, and receive such notification no later than the general public in the country of the project proposal.
- For practical cooperation, each country should appoint one focal point for notification of the EIA. Countries are invited to use a notification template, such as the one provided under the Espoo Convention.²¹

- All countries potentially affected by a project proposal – both the host and neighboring countries – should be jointly responsible in disseminating information about the EIA and collecting feedback from PAP and other stakeholders for consideration in the decision-making process.
- All comments received on transboundary EIAs from any stakeholder in any potentially affected country should be considered in making a decision on the EIA, and that final decision should be published in neighboring countries.

Public participation within transboundary EIA promotes the transparency and legitimacy of decision-making processes in projects with transboundary effects. Project proposals with anticipated transboundary impacts that conduct an EIA without transboundary public participation may address State-to-State concerns, but may completely miss important local issues and valuable local or indigenous knowledge. Effective feedback mechanisms can ensure that best efforts to address local concerns in neighboring countries have been built into EMMPs and thus avoid future conflicts during construction and operational phases of the project.

The ECE Guidance demonstrates that, despite the need to consider unique procedural issues in establishing transboundary EIA arrangements, the majority of the concepts and recommended approaches outlined in these Guidelines will be applicable to project proposals with transboundary impacts. In other words, the same public participation principles and approaches should apply within both the host and neighboring countries, although the institutional mechanisms may differ.

20. UNECE (2006) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context, ECE/MP.EIA/7

21. See format for notification under the Espoo Convention, UNECE, www.unece.org.

3.5 PUBLIC PARTICIPATION BEYOND THE EIA PROCESS

The Guidelines address public participation in the EIA process, which typically begins with the screening step. One of the key means for ensuring that public participation is meaningful and effective is to start the engagement with PAP, vulnerable groups, and other stakeholders as early as possible in the project planning process. Often, there can be benefits of engaging stakeholders during the early project feasibility and pre-feasibility stages – even if there is limited information available about the project proposal at that stage – in order to:

- begin to build relationships between the project proponent and the local community;
- provide local stakeholders with early information about the project proposal; and
- avoid and/or minimize potential social or environmental problems upfront at the early process of project conceptualization, design, and alternative site selections.

Good Practice Example – Engage as Early as Possible

During the exploration phase for a mining project in Laos, the company actively engaged with local stakeholders for a period of three to four years prior to commencing operations. Through doing this, the company was able to establish trust and build strong relationships with stakeholders, before actual mining operations began. This early engagement helped all parties reach a common understanding of the project's benefits and challenges, and resulted in a low number of grievances concerning the project.

The project proponent should release as much information publicly about the project concept or pre-feasibility work as possible at this early stage, to demonstrate a willingness to be transparent and accessible. This could also include explaining why certain information is not available at this step (e.g. for commercial-in-confidence reasons or lack of knowledge). In addition, while project proponents' corporate social responsibility (CSR) strategies are separate to the impact mitigation measures adopted in an EIA and are not a formal part of an EIA, the principles of public participation outlined here can help to guide the development of such CSR strategies.

Public participation is also important for the entire EIA policy framework, which will require revisions and updates from time-to-time. In particular, countries that use categorized lists of projects for screening purposes will need to revise these lists over time. The EIA authority or other relevant government agencies should involve stakeholders in such policy discussions through dedicated public participation processes.

4. PUBLIC PARTICIPATION IN KEY STEPS OF THE EIA PROCESS

Six steps of the EIA process are identified where participation is most relevant for the intended outcome of the specific step. Each of these steps has a range of public participation levels which are considered best practice and practical. However, the level of public participation will vary depending on the objectives of each step.

- Step 1: Public Participation in Screening
- Step 2: Public Participation in Scoping
- Step 3: Public Participation in the EIA Investigation and Report Preparation
- Step 4: Public Participation in the Review of the EIA Report and EMMP
- Step 5: Public Participation in the Decision-Making on the EIA Report and EMMP
- Step 6: Public Participation in Project Monitoring, Compliance, and Enforcement

For each step, it is important to identify the specific purposes of public participation, what level of public participation is needed in each of the steps, and what information should be publicly available. This will help maximize the benefits of public participation for the project and for all those involved in the EIA process. Each step in the Guidelines is therefore structured around these matters. Each step also contains a set of indicative questions that could be used by anyone (whether project proponent, EIA consultant, government, PAP or other stakeholder) to check whether, or to what extent, the public participation undertaken during that step has been meaningful.

These Guidelines are based on practical experience and reflect good practice in EIA. The fundamental objective is always to ensure meaningful public participation at each step in the EIA process.

If the proposed project is very large or highly controversial (for example, a nuclear power plant), then there may need to be more engagements to ensure that public participation is meaningful. For example, the scoping step for such projects may take a long time and the EIA investigation step could take up to a year or more to complete. These projects will require much more detailed public participation plans with many meetings and other forms of engagement with PAP and other stakeholders. This is a direct consequence of the complexity of such projects.

STEP 1: PUBLIC PARTICIPATION IN SCREENING

Screening is the first step in a formal environmental assessment process, during which a decision is made by the relevant government EIA authority whether or not an IEE, EIA, or some other form of environmental assessment is needed for a proposed project. The decision on whether or not a specific project is subject to an EIA is determined according to each country's existing procedures, which typically list the project types required to conduct an EIA. Some countries also allow the EIA authority the discretion to require a project to conduct an EIA if the project is likely to have a significant impact on the environment, regardless of the screening list.

1.a. PURPOSE OF PUBLIC PARTICIPATION AT THE SCREENING STEP

While EIA legislation often does not specifically require public participation at the screening step, it is strongly recommended. As a general principle, public participation should commence as early as possible in order to maximize the benefits of relationship-building between project proponents and local communities.

Screening may be the first time that a community hears about a particular project in their area or that may affect their livelihoods. It may also be the first time that the national and local governments and relevant ministries are made aware about a proposed project. Results of early discussions and feedback can also be important inputs to support decision-making and the determination of the EIA requirements of the proposed project. The screening list distinguishes between projects requiring an EIA, IEE, or merely an environmental review and typically establishes some thresholds (such as the minimum number of hotel rooms in a resort development). Public participation allows PAP and other stakeholders to monitor the actual plans (such as the area of land purchased for the project) and ensure that such thresholds are not exceeded during actual implementation. Finally, public participation is important at this step because the screening decision may result in no further formal EIA process and therefore this may be the only opportunity for communities to contribute to a government decision in the EIA process.

Accordingly, the purpose of public participation at the screening step is to:

- Establish relationships between the project proponent and PAP and relevant government agencies;
- Ensure PAP are aware of the project proposal and EIA process to be followed;
- Begin building the capacity of PAP and local stakeholders to participate in the EIA process;
- Provide PAP and local stakeholders with an opportunity to contribute their initial views on the project proposal for consideration in the screening decision (i.e. potential social and environmental issues, project design, scale and siting considerations, etc.);
- Assist the EIA authority to make an informed decision rather than relying entirely on a screening checklist; and
- Ensure that relevant project information and the screening decision is made publicly available.

1.b. LEVEL OF PUBLIC PARTICIPATION EXPECTED

The minimum levels of public participation expected at the screening step are the inform and consult levels on the public participation spectrum. A positive approach to public participation at the screening step is very important, as this will set the tone for future engagement with the public during the EIA process.

At the screening step, PAP and other stakeholders need first to be informed about the proposed project. This step should also enable them to provide their initial feedback and reactions to the proposed project (consult), which can help the EIA authority to make an informed decision about the form of assessment required. The final screening decision should also be made public.

A screening meeting between the project proponent (and their EIA consultants, if appointed at that stage) and the community should be as inclusive as possible. This could include community leaders, political leaders, religious leaders, indigenous peoples, and CSOs from the villages or areas that are likely to be affected by the project. This meeting is about providing information to these key people (inform). This information can then

be distributed to all PAP and local CSOs. At this meeting, the information should be about the broad details of the project, the possible impacts, and the next steps in public participation and community consultation. This meeting will also help the EIA consultant identify who should be consulted in the future and what information should be provided. The cost of this meeting should be borne by the project proponent and should not be the responsibility of the community. Specific arrangements in the public participation plan will be needed to consult with women, ethnic minorities, and vulnerable groups to address their special needs.

When submitting its project proposal to the EIA authority for screening, the project proponent should include a brief summary of the public participation processes undertaken to date and the initial feedback received.

In making a screening decision, it is suggested that the EIA authority should conduct a site visit and consult with local stakeholders to discuss any concerns raised in the initial consultations.

Table 3: Screening engagement summary

Who should be Involved?	Who is responsible for arranging the engagement?	What are the desired outcomes?
PAP at the local level and local CSOs	Project proponent in cooperation with relevant local authorities and the local community leaders	To inform PAP of the project and EIA process
Relevant local authorities		
Project proponent and (if already engaged) EIA consultant	EIA authority	For proponent to collect initial feedback about the screening of the proposed project for incorporation into project and EIA preparation
Translator/s		For EIA authority to receive initial feedback about the proposed project for consideration in the screening decision

1.c. INFORMATION TO BE PROVIDED AND COLLECTED

At the screening step, there will be limited information available to be provided to all stakeholders because any scoping of impacts at this point will likely be of a preliminary nature to inform the proponent's feasibility assessments. However, there should be basic information about the project that can be provided in a simple and accessible manner.

Some of the key issues to be explained by the project proponent (or their EIA consultant) during the screening step include:

- The steps in EIA process;
- Project boundaries, parameters, and limits;
- The different stages of the project and possible construction and operation timelines;

- Anticipated key issues and concerns (based on similar projects);
- Process for identifying PAP and other stakeholders;
- Potential impacts (both positive and negative);
- Potential impacts on indigenous peoples or ethnic groups; and
- Outline the anticipated future public participation.

Table 4: Screening step information needs and disclosure

What information should be provided?	Who is responsible for providing the information?	Who should have access to the information?
<p>Outline of project proposal, including summary of project description, project justification, maps, draft plans, and other available information</p> <p>Details of the project proponent and EIA consultant (if known)</p> <p>Steps in the EIA process (regardless of Screening decision)</p> <p>Outline of planned future public participation</p>	Project proponent	Local communities, media, CSOs, local authorities
Initial feedback on the project proposal	Local community leaders	Project proponent and EIA authority
Screening decision	EIA authority and project proponent	General public, including via the EIA authority's website

Good Practice Example – Screening

Public participation during screening is encouraged in Cambodia through a two stage process. During the first stage, the project proponent meets with relevant line ministries and representatives of local authorities. Copies of the project description are distributed in Khmer and comments are recorded. During stage two, a site visit to meet with local stakeholders helps to: identify community concerns; understand other development plans and

existing concession agreements in the area; and consider the locations of potentially sensitive sites (e.g. cultural, historic, protected areas, etc.). These steps help Cambodia's Department of EIA to clearly determine the type of environmental assessment required for the proposed project (i.e. an IEE or an EIA).

1.d. HAS PUBLIC PARTICIPATION AT THE SCREENING STEP BEEN MEANINGFUL?

At the end of the screening step, the project proponent, EIA authority, PAP and other interested stakeholders should all be able to determine whether any public participation undertaken has been meaningful at this step. The following questions should be considered by all stakeholders. The answers to these questions will help determine if the objectives for meaningful public participation in the screening step have been adequately met.

- Who is the project proponent?
- Who is financing the proposed project?
- Who are the EIA consultants (if engaged)?
- What type of project is proposed?
- What is the purpose of the proposed project?
- What is the justification for the proposed project?
- How much land will be required for the project? What is the current status of that land?
- What plans, maps, and diagrams are available?
- What are the potential key issues and impacts of the project?
- What are the proposed project timeframes for construction and operation?
- Who are PAP?
- Who are the other stakeholders?

- Are there PAP and other stakeholders with particular needs to be considered in public participation (e.g. ethnic groups, women, etc.)?
- How can PAP and other stakeholders be identified?
- Was a screening meeting held for the local community?
- Has the EIA authority determined if an EIA is needed for this project (i.e. what is the screening decision)?
- Did the EIA authority conduct a site visit during the screening step?
- Does the local community feel they had an opportunity to express their perspectives on the proposed project prior to the screening decision?
- Has the screening decision been made publicly available?
- How will PAP and other stakeholders be able to participate in the next steps of the EIA and project development processes?

These questions are intended to serve as guidance for assessing whether or not meaningful public participation has occurred.

STEP 2: PUBLIC PARTICIPATION IN SCOPING

Once the EIA authority determines during screening that an EIA is required for a proposed project (or subsequently if an IEE identifies some significant adverse impacts), scoping is the next step in the process. Scoping embodies the process for determining the scope of an EIA (i.e. identifying the relevant information that needs to be collected and analyzed to assess the potential impacts of a project proposal and possible project alternatives) and producing a terms of reference for the preparation of an EIA report (EIA ToR).²²

The draft EIA ToR will outline the key environmental and social impacts that will need to be investigated and assessed in the EIA report. The draft EIA ToR should be reviewed, and approved if appropriate, by the EIA authority. The draft EIA ToR should be reviewed in conjunction with a scoping report, which should articulate the public participation efforts to date and provide a detailed public participation plan for subsequent steps in the EIA process.

If not already engaged, the project proponent will usually contract an EIA consultant at this point to undertake the scoping and EIA investigation steps. Preparation of the ToR, scoping report, and public participation plan is the responsibility of the EIA consultant hired by the project proponent. The EIA consultant is typically responsible for making sure PAP and other stakeholders are informed and able to engage in the EIA process. As such, this chapter refers to public participation being undertaken by the EIA consultant, but this should be understood to be on behalf of, and generally including representatives from, the project proponent.

2.a. PURPOSE OF PUBLIC PARTICIPATION AT THE SCOPING STEP

The purpose of public participation at the scoping step is to:

- clearly identify all relevant stakeholders, especially PAP and vulnerable groups;
- ensure that PAP and other stakeholders are fully informed and aware of the project proposal;
- ensure that PAP and other stakeholders have the opportunity to contribute to the identification of potential project alternatives and issues to be included in the ToR for consideration in the EIA investigation; and
- engage PAP and other relevant stakeholders in the design of the public participation plan for the EIA investigation.

22. This EIA ToR is different from the ToR that would form the basis of the contract between the project proponent and the EIA consultant, which may be entered into at an earlier stage.

2.b. LEVEL OF PUBLIC PARTICIPATION EXPECTED

The scoping step is critical to determining what will be considered during the detailed EIA investigation and report preparation step. Therefore, it is vital that PAP and other stakeholders have the opportunity to provide input to these determinations so that their interests and concerns are included early on. The minimum level of public participation expected at the scoping step is the consult level on the participation spectrum, with the understanding that adopting the involve level (e.g. joint identification of project alternatives) or even collaborate level (e.g. reaching consensus on the public participation plan) could lead to a more widely-endorsed scoping report and EIA ToR, which in turn could facilitate a smoother EIA investigation. Public participation that only meets the inform level is insufficient at the scoping step because it does not include any opportunities for feedback from PAP or other stakeholders.

To ensure public participation at the scoping step is meaningful and fulfils its purpose, it must be undertaken in such a way as to achieve three key objectives:

1. PAP and other stakeholders need first to be informed about the proposed project.
2. Once informed, and having been given reasonable time to consider the proposal, PAP and other stakeholders should then be consulted on the key issues that might affect them, their community, their livelihoods, the environment and any other concerns.
3. Having had the opportunity to provide their views, PAP and other stakeholders should be presented with an opportunity to review the draft EIA ToR and public participation plan to ensure they contain all the important issues for consideration during the EIA investigation.

The number of engagements, and the specific engagement techniques, needed to achieve meaningful public participation at the scoping step will vary depending on the nature of the proposed project, its location, and the level of existing awareness of the proposal amongst the stakeholders. Generally, the scoping step involves at least two engagements with PAP and other stakeholders, not including any additional engagements specifically to ensure the views of women or other vulnerable groups are properly considered. These engagements are key to building trust over time with all stakeholders and the EIA

process. This can rarely be achieved in just one engagement. It is the responsibility of the EIA consultant to determine – based on the particular circumstances and in negotiation with the project proponent – the exact number of engagements that will be required.

“Engagements”

Throughout these Guidelines, the word “engagement” is regularly used in places where “meeting” may seem more natural. This different word has been chosen intentionally to reflect the understanding that meetings are not always the most appropriate or effective technique for disseminating information to, or garnering information and ideas from, PAP and other stakeholders. The word “engagements” is therefore used to capture both meetings and the many other formal and informal techniques available (such as those given as examples in Figure 3 on the Public Participation Spectrum). Considered effort should always be given to select public participation techniques that are appropriate culturally and socially, and that reflect the needs, capacity and circumstances of PAP and other stakeholders being engaged.

At least two weeks in advance of any engagement, the EIA consultant should notify stakeholders potentially impacted by the project. Notification could be through formal letters, community radio, advertising boards, etc., and appropriate for the particular circumstances. This advance notification is to ensure that there is enough time to gather the community together at a time and place that is convenient for the stakeholders.

The first engagement

The first engagement – often in the form of a meeting close to the proposed project site – is to inform PAP and other stakeholders of the proposed project (including potential impacts already identified), outline the EIA process, and explain the public participation to be undertaken (including starting the request for input in the scoping step). While some of this information may have already been conveyed during the screening step or even earlier, the up-to-date situation needs to be explained at the beginning of the scoping step. The first engagement should include the community leaders and political leaders of the villages or areas that are likely to be affected by the project, representatives of women, minorities, or other vulnerable groups, as well as representatives of local authorities. This first engagement will also help the EIA consultant identify who should be consulted in the future and what information should be provided.

In preparation for the first engagement, the EIA consultant is encouraged to gain an understanding of the socio-cultural-economic conditions of the PAP, and to explore with some key informants how best to achieve the widest possible participation. Through this, knowledge on how to engage with women, as well as vulnerable groups, can be obtained and help inform how the first engagement and discussions are facilitated.

Good Practice Example – Hearing Women's Voices

Hold specific – and separate – small group discussions with women (as well as with other vulnerable groups identified) in the potentially affected communities, in order to identify the issues of concern and importance to them (as they may be different from those of men or other dominant groups in the community). This should be led by a female facilitator, conducted in the local language, and held at a time and place convenient to the targeted group, in order to help create a conducive environment for an open discussion.

The second (and any subsequent) engagements

The second and following engagements – whether meetings or other techniques such as focus group discussions – are to solicit concerns and issues from PAP and other stakeholders for incorporation into the scoping report, and to present and seek feedback on the draft reports. These are the engagements, usually held at the local level, where PAP will be given more detailed information about the EIA process and the draft public participation plan. In addition, these engagements will allow PAP and other stakeholders to ask questions and raise issues and concerns about the project to be addressed during the EIA investigation. These can also be an opportunity to address the specific engagement needs of women and vulnerable groups. Finally, these engagements should involve the presentation of the draft EIA ToR for the EIA investigation and draft public participation plan for local communities to review and provide feedback on.

At the scoping step, these engagements are to exchange ideas and information. While scoping occurs before the detailed assessment has been conducted, scoping can be used to obtain information from PAP about local environmental values and possible impacts. This could include what plants, animals, and cultural sites are in the region or possible risks to the livelihoods of the community from the project.

Specific arrangements will be needed to consult with women, ethnic minorities, and vulnerable groups to address their particular needs.

Table 5: Scoping engagement summary

Nature/ objective of engagement	Who should be Involved?	Who is responsible for making arrangements?	What are the desired outcomes?
1st engagement (early in Scoping)	<p>PAP and other stakeholders</p> <p>Specific attention should be made to include women and vulnerable groups</p> <p>Relevant local authorities</p> <p>Project proponent and EIA consultant</p> <p>Translator/s</p>	<p>EIA consultant, in coordination with the local community leaders and local authorities</p>	<p>To inform PAP and other stakeholders of the project proposal</p> <p>To inform PAP and other stakeholders of the EIA process</p> <p>To set the date for the next scoping engagement</p>
2nd engagement	<p>PAP and other stakeholders</p> <p>Local authorities</p> <p>Project proponent and EIA consultant</p> <p>Translator/s</p> <p>This meeting should also include separate meetings for men and women (with women facilitators) and then a combined meeting</p>	<p>EIA consultant, in cooperation with local community representatives</p>	<p>To elicit initial feedback and ideas from PAP and other stakeholders (consult) on issues that should be included in the EIA ToR</p> <p>To inform and consult with PAP of the proposed public participation plan that will include future engagements and provision of information</p>
Subsequent engagements	<p>PAP at the local level and local CSOs</p> <p>This could also include those indirectly impacted and national NGOs with an interest in the area or the project</p> <p>Local authorities</p> <p>Project proponent and EIA consultant</p> <p>Translator/s</p>	<p>EIA consultant, in cooperation with local community representatives</p>	<p>To present draft EIA ToR and seek feedback (consult) on whether it includes those issues of concern to PAP and other stakeholders</p>

The cost of organizing and holding these engagements is the responsibility of the project proponent. The contract with the EIA consultant should include details on such costs. This could include venue hire, provision of information and other materials, costs associated with the attendance of government officials or other participants, and any refreshments needed.

Prior to final approval, the EIA authority may make the draft EIA ToR and public participation plan, together with draft scoping report, available on their website and/or other appropriate channels for public comment.

The scoping report and the final EIA ToR should be made publicly available by the project proponent, following approval by the EIA authority where relevant. The scoping report should also include a public participation plan that will be used by the proponent (and their EIA consultant) to inform and consult with PAP and other stakeholders during the EIA Investigation step. A template for a public participation plan is provided in Annex IV.

2.c. INFORMATION TO BE PROVIDED AND COLLECTED

Information should be provided to clearly explain the project proposal including maps, drawings, diagrams and other visual information. This should explain the details of the project proposal in a way that can be easily understood by the community, which may vary from community to community and area to area.

The information should be relevant and in a form that can be understood by PAP and the other stakeholders. This means that technical documents should be explained in simple terms in the stakeholders' language(s). It also means that maps, charts, brochures, and other key information or documents should be provided to – and left with – the community to discuss further.

This information should also be placed on the internet, as well as made available at the local authority office, the EIA authority office, and with community representatives, so that it can be accessed by other stakeholders and the general public. All material provided to PAP should be treated as information in the public domain that can be accessed and distributed to people outside the local community if required. If there is a need for scientific and technical information to be explained, then the EIA consultant should arrange this with the appropriate experts and the community.

Some of the key issues to be explained by the EIA consultant during the scoping step include:

- Project proposal description, history, context, justification, economic and social benefits, boundaries and limits;
- Project proposal alternatives, including alternative locations, size, technologies or operational arrangements and ways to avoid resettlement or livelihood impacts;
- Proposed project phases (including pre-construction activities) and possible construction and operation timeframes;
- Key concerns (based on similar projects and knowledge of the location);
- The steps in EIA process;
- Potential direct and indirect impacts;
- Sensitive or important areas;
- Required land and possible resettlement;
- Identification of potential impact avoidance, mitigation and management measures;
- Identification of PAP and other stakeholders;
- Public participation plan; and
- Draft EIA ToR.

Providing feedback to the community following engagements will continue to build trust. The disclosure of the draft EIA ToR for the proposed project is important to allow PAP to know that key issues are being addressed by the EIA.

Table 6: Scoping step information needs and disclosure

What type of information should be provided?	Who is responsible for providing the information?	Who should have access to the information?
Outline of project, including maps, draft plans and other available information Details of the timeframe for construction and outline of possible impacts (in general)	EIA consultant	Local communities, PAP, CSOs, government agencies, media
Scientific or technical information about the project proposal and possible impacts	EIA consultant should organize specialists, as well as translators	Any PAP, stakeholder or government official that requests such information
Initial comments from the local communities, CSOs, and government agencies.	EIA consultant	Written feedback and response should be provided to the community on their initial comments
Draft scoping report, EIA ToR and public participation plan	EIA consultant should prepare and distribute these documents for discussion with the local communities	Local communities (PAP, other stakeholders) and local authorities EIA authority
Approved scoping report, EIA ToR and public participation plan	EIA authority Project proponent, EIA consultant (on project website)	PAP General public

Good Practice Example – Scoping

In 2015, a large oil company operating in eastern Thailand planned a project to expand and increase the capacity of its existing oil refineries plant. Based on previous relationships between the company and the local network of communities, fisher groups, CSOs, and academics, an agreement was reached to start the consultation process on the project details, key concerns, potential impacts, and other related issues.

Over a period of about three months, several meetings and discussions – including a public

scoping forum – were arranged before the ToR for the EIA study was discussed and drafted together. The EIA consultant was selected jointly as well.

By starting the public participation process early during scoping, the EIA consultant and project proponent have been able to maintain constructive and productive relationships throughout the EIA investigation, through to the public review of the draft EIA report.

2.d. HAS PUBLIC PARTICIPATION AT THE SCOPING STEP BEEN MEANINGFUL?

At the end of the scoping step, the project proponent, EIA consultant, EIA authority, PAP and other stakeholders should all be able to determine whether any public participation undertaken has been meaningful at this step. The following questions should be considered by all stakeholders. The answers to these questions will help determine if the objectives for meaningful public participation in the scoping step have been adequately met.

- Who prepared the scoping report, public participation plan and EIA ToR?
- Have all the key issues and impacts that might be caused by the project, and that require investigation, been included in the EIA ToR?
- Are the scale and location of the project proposal clearly identifiable in the EIA ToR?
- Are plans, maps and diagrams included in the EIA ToR?
- Was an initial engagement held early in the scoping step?
- Was an engagement held to elicit community views on key issues and potential impacts for inclusion in the EIA ToR?
- Was an engagement held to present the draft scoping report, draft EIA ToR and draft public participation plan, and to seek feedback on these drafts?
- Have all PAP – both direct and indirect – and other stakeholders been involved in the public participation processes in the scoping step?
- What are the key issues, concerns and/or preferences of PAP and other stakeholders in relation to the project proposal?
- Do the scoping report and draft EIA ToR identify project alternatives for investigation?
- Does the scoping report explain the public participation undertaken in this step, and how it was considered in the preparation of the EIA ToR and public participation plan?
- Has a tailored public participation plan been prepared to guide the rest of the EIA process?
- How will PAP and other stakeholders be able to participate in the next steps of the EIA process?
- Has the approved scoping report and EIA ToR been made publicly available?

These questions are intended to serve as guidance for assessing whether or not meaningful public participation has occurred.

STEP 3: PUBLIC PARTICIPATION IN THE EIA INVESTIGATION AND REPORT PREPARATION

Once the EIA authority has approved the scoping report and EIA ToR, the task of gathering information and preparing the EIA report commences. The EIA consultant holds the primary responsibility in this step to make sure that meaningful public participation is applied in accordance with the public participation plan, and that PAP – and women and vulnerable groups in particular – understand the project, its consequences, and the EIA process.

The EIA investigation and report preparation step should result in:

- establishing baseline environmental and socio-economic data;
- identifying and evaluating impacts and project alternatives;
- developing an EMMP; and
- documenting the analysis, proposed approach and findings in a draft EIA report for consideration by PAP and other stakeholders.

3.a. PURPOSE OF PUBLIC PARTICIPATION IN THE EIA INVESTIGATION AND REPORT PREPARATION STEP

Public participation is important throughout the data gathering and EIA investigation process to ensure that:

- the EIA consultant has access to the most relevant information, including local perspectives, to effectively conduct the investigation;
- PAP and other stakeholders are kept informed of progress;
- PAP and other stakeholders can contribute their opinions and expectations to the analysis;
- PAP and other stakeholders can propose alternatives and suggest appropriate impact avoidance, management, mitigation, compensation, and resettlement measures;

- the specific needs and concerns of women and vulnerable groups are identified and considered; and
- constructive relationships are maintained between stakeholders.

Based on the information gathered, the EIA consultant will prepare the EIA report, which includes the EMMP. The project proponent and the EIA consultant, with inputs from PAP and other stakeholders, need to ensure that the EMMP budget is appropriate and that there is sufficient project funding. The project proponent is ultimately responsible for ensuring that the EMMP is implemented. Once drafted, the EIA consultant should seek feedback on the draft EIA report from both the EIA authority and PAP and other stakeholders. This should involve at least one engagement, at which the EIA consultant presents the draft EIA report, as well as opportunities for submission of comments. The EIA consultant should update the draft EIA report following the consideration of comments and issues raised by PAP and other stakeholders, before it is formally submitted to the EIA authority for review and decision.

Public participation is vital during the EIA investigation and report preparation step to ensure the EIA is based on relevant and up-to-date information regarding:

- Baseline data of environmental and socio-economics including cultural aspects and perspectives of women, ethnic minorities, and other vulnerable groups;
- Project alternatives, to inform good project design;
- Potential impacts (both direct and indirect);
- The viability of impact avoidance, mitigation, and management strategies;
- Local knowledge and practices;
- PAP and other stakeholder suggestions;

- Complaints, feedback, and reactions from the community; and
- Responses to any draft resettlement proposals and proposed compensation, including the extent of community consent or agreement.

3.b. LEVEL OF PUBLIC PARTICIPATION EXPECTED

The EIA investigation step should involve public participation in line with the following principles:

1. Compliance with the public participation plan in the approved EIA ToR (and/or scoping report) for the EIA.
2. Keeping PAP and other stakeholders informed of progress and findings.
3. Consulting and involving (and where possible, collaborating with) PAP and other stakeholders both before the investigation is complete and again before the report is finalized.

Accordingly, the minimum levels of public participation expected at the EIA investigation and report preparation step are the inform, consult, and involve levels on the public participation spectrum (see Figure 4), with the understanding that adopting the collaborate level could generate enhanced impact avoidance, management and mitigation measures that are more acceptable to all parties (including the project proponent).

As with the screening and scoping steps, ensuring that public participation is meaningful during this step requires that PAP and other stakeholders:

- are informed about the proposed project, including its background and the public participation plan, and have full information and sufficient time, as well as sufficient capacity, to consider that information;
- have the opportunity through consultation to contribute their views and knowledge during the EIA investigation;
- have the opportunity to provide feedback on the investigation, findings and analysis;
- have the opportunity to formally comment on a draft EIA report before it is finalized and submitted to the EIA authority for review; and
- have access to the submitted EIA report.

The number and type of engagements needed to achieve this level of meaningful public participation will vary, depending on the nature of the proposed project, its location, and the level of existing awareness of the proposal amongst PAP and other stakeholders – including, of course, the extent of public participation already undertaken in the screening and scoping steps. Generally, at least two engagements with PAP and other stakeholders – and separate engagements with women and vulnerable groups – will be needed during the EIA preparation step. It is the responsibility of the EIA consultant to determine the exact number of engagements that will be necessary, consistent with the provisions outlined in the public participation plan. Additional public participation engagement strategies to complement consultation engagements may also be needed in some cases, depending on the size and nature of the proposed project and the nature of the affected community

At least two weeks in advance of any engagement, the EIA consultant should notify villages and communities potentially impacted by the project. Notification could be through formal letters, community radio, advertising boards and/or other methods appropriate for the particular communities and stakeholders. This is to ensure that there is enough time to gather the community together at a time and place that is convenient for the stakeholders. All engagements should be arranged with the local community leaders but must include different representatives of all PAP (including women, ethnic minorities, and other vulnerable groups). Different methods can also be used to obtain information. For example, small group discussions may be necessary for eliciting sectoral concerns, such as from specific occupational groups. As indicated in previous steps, specific arrangements will be needed to consult with women, ethnic minorities, and vulnerable groups to address their particular needs.

PAP and other stakeholders must be given at least two weeks to consider any information presented to them. It is not enough to provide information to PAP unless there is also time for PAP to read and consider that information before being able to respond to the issues contained in the information. Continuous engagement with PAP throughout the EIA investigation and report preparation step helps to avoid overwhelming communities with massive amounts of information in a draft EIA report.

Table 7: EIA investigation and reporting step engagement summary

Nature/ objective of engagement	Who should be Involved?	Who is responsible for the arrangements?	What are the desired outcomes?
<p>Informing (early in the investigation step)</p>	<p>PAP at the local level</p> <p>Local CSOs</p> <p>Relevant local authorities</p> <p>Project proponent</p>	<p>Project proponent, EIA consultant in cooperation with relevant local authorities, and the local community leaders</p>	<p>To inform PAP of the project proposal, the public participation plan and the EIA ToR for the EIA investigation</p> <p>To identify sources of information within PAP and other stakeholders that could contribute to the research and analysis in the investigation</p>
<p>Consulting (during the EIA investigation and data gathering)</p>	<p>PAP at the local level</p> <p>Local CSOs</p> <p>Relevant local authorities</p> <p>Technical and scientific experts (if requested by the community or otherwise considered necessary)</p> <p>Project proponent</p> <p>Translator/s</p>	<p>EIA consultant in cooperation with relevant local authorities and the local community leaders</p>	<p>To enable PAP and other stakeholders to contribute their knowledge, experience and views on the local environment and project proposal into the EIA data gathering process.</p> <p>To explain to PAP and other stakeholders the early and ongoing findings regarding the investigation findings, potential project impacts and analysis – including measures to address these impacts.</p> <p>To provide PAP and other stakeholders the opportunity to respond to, and present their perspectives on, these findings and analyses.</p>
<p>Engagements on Draft EIA report and draft EMMP (before the report is finalized and with sufficient time to incorporate changes following the meeting before submission to the EIA authority)</p>	<p>PAP at the local level</p> <p>Local and national CSOs</p> <p>Relevant national government and local authorities</p> <p>Technical and scientific experts</p> <p>Project proponent</p> <p>Translator/s</p>	<p>EIA consultant in cooperation with local community representatives</p>	<p>To present the draft EIA report, explain the findings of the investigation (including the impacts, alternatives, avoidance and mitigation measures, and EMMP), and a response of how PAP and other stakeholders' views have been incorporated.</p> <p>To provide information about benefits, compensation, resettlement plans, and grievance mechanisms for PAP.</p> <p>To give PAP and other stakeholders an opportunity to respond to the draft EIA report before it is finalized and submitted to the EIA authority.</p>
<p>Continuous engagement (to complement consultation meetings)</p>	<p>Stakeholders relevant to the engagement technique and objective</p> <p>Project proponent and EIA consultant</p> <p>Translator/s</p>	<p>EIA consultant</p>	<p>To gather information and views from specific stakeholders (e.g. specific vulnerable groups, or technical experts)</p> <p>To seek feedback on specific elements of the EIA from PAP (e.g. draft resettlement proposals)</p>

The EIA report should contain a very clear and detailed explanation of the public participation that has been undertaken, including how the feedback from PAP and other stakeholders has been incorporated into the analysis and findings. Disseminating the public's input to decision makers, via the EIA report, and back to the public at large creates a "feedback loop" that helps demonstrate to the public that their time and effort has been valued

and that their comments and concerns have been understood and accurately communicated to project proponents and decision makers, and informed the EIA investigation.

The submitted EIA report should be accompanied by a declaration from the EIA consultant of its accuracy, completeness, and consistency with the approved EIA ToR (including the public participation plan).

3.c. INFORMATION TO BE PROVIDED AND COLLECTED

Throughout the investigation step, information of relevance to PAP and other stakeholders will regularly become available. Some of this information will be obtained from the community. Information should also be provided in a clear and coordinated manner to ensure that PAP and other stakeholders can:

- keep updated on the EIA investigation;
- respond to new ideas and options that arise;
- feel engaged in the EIA process; and
- respond to proposed impact avoidance, management and mitigation measures.

The information should be relevant, comprehensive, and in a form that can be understood by PAP and the other stakeholders. This means that technical documents should be explained in simple terms in the local language, especially for ethnic groups. It also means that maps, drawings, diagrams, charts, brochures, and other key information or documents should be left with the community to discuss further.

All documentation provided to PAP and other stakeholders should be available on the internet in a timely manner, as well as in hard copy form for members of the general public to access for free in multiple locations, including:

- the project proponent and EIA consultant's offices;
- at least one additional venue near the project location, such as a local authority office, school, or community facility;
- local and/or national authority offices in major urban centers; and
- the EIA authority's office.

All material provided to PAP should be treated as information in the public domain that can be accessed and distributed to people outside the local community if required. If there is a request for scientific and technical information to be explained, then the EIA consultant should arrange for a meeting with the appropriate experts and the community.

Once finalized and submitted to the EIA authority for review, the project proponent should also make the EIA report publicly available. This includes prominent public announcements about its availability, uploading it to the internet, and making hard copies available in multiple, convenient locations (both in the local community and major urban centers).

Table 8: EIA Investigation and Report Preparation step information needs and disclosure

What type of information should be provided?	Who is responsible for providing the information?	Who should have access to the information?
<p>Outline of project, including maps, draft plans and other available information, including methods and detailed work plan</p> <p>Details of the time frame for construction and outline of possible impacts (in general)</p>	EIA consultant	Local communities, PAP, CSOs, local authorities, media
<p>The public participation plan and an explanation of this plan</p> <p>Details of the EIA investigation plan</p>	EIA consultant	Local communities, PAP, CSOs, local authorities, media
<p>Presentation to PAP and other stakeholders on the EIA preparation and information gathering</p> <p>Initial comments from the local communities, CSOs, and government responses</p>	EIA consultant	<p>Local communities, PAP, CSOs, local authorities, media</p> <p>For larger projects, this could include regional stakeholders and international NGOs</p>
<p>Presentation of the draft EIA report to the community before submitting to the EIA authority – this should include the draft EMMP and any resettlement action plan and/or compensation</p>	EIA consultant	<p>Local communities, PAP, CSOs, local authorities, media</p> <p>For larger projects, this could include regional stakeholders and international NGOs</p>
<p>Written feedback on comments should be provided to the community, including publication on the project website</p>	EIA consultant	Any individual or organization that provided input or comments during the drafting
<p>Final EIA report and EMMP submitted to EIA authority</p>	Project proponent, EIA authority	Local communities, PAP, CSOs, local authorities, media

Good Practice Example – EIA Investigation and Report Preparation

While conducting a public consultation, a power generation company in Vietnam came to realize that the local people's knowledge of how development projects and the EIA process work was limited. As a solution, the company conducted several additional meetings to explain their survey plans and how they would determine potential damages, land compensation, and a resettlement plan. Under Vietnam's EIA law, the project proponent has a

responsibility for making sure communities are aware and informed of proposed project plans. This has helped to anticipate misunderstandings by requiring community consultations. Investing in building capacities of the community to understand the EIA process and technical elements of the project enabled for more meaningful consultations and ultimately a more effective EIA report.

3.d. HAS PUBLIC PARTICIPATION AT THE EIA INVESTIGATION AND REPORT PREPARATION STEP BEEN MEANINGFUL?

At the end of the EIA investigation, the EIA report (including the EMMP) is finalized and prepared for submission to the EIA authority. The project proponent, EIA authority, PAP, and other stakeholders should all be able to determine whether any public participation undertaken at the investigation and report preparation step has been meaningful. The following questions should be considered by all stakeholders. The answers to these questions will help determine if the objectives for meaningful public participation in the EIA investigation and report preparation step have been adequately met.

- What were the key concerns, needs and desires of PAP and other stakeholders regarding the project proposal?
- How were these concerns, needs and desires identified and prioritized in the EIA investigation for research and analysis?
- How have these concerns, needs and desires been addressed in the EIA report and EMMP (not just documentation in the public participation chapter, but how did they influence the EIA investigation and findings)?
- Does the EIA report provide sufficient information about potential negative and positive impacts of the project proposal?
- Does the EIA report comprehensively document the public participation undertaken during the EIA investigation and EIA report preparation?
- Is there a resettlement action plan and/or compensation described in the EIA report?
- How were PAP and other stakeholder views on impact mitigation, resettlement and/or compensation considered in the preparation of the EIA report?
- Were PAP and other stakeholders given an opportunity to comment on the draft EIA report and EMMP before it was finalized?
- Were the specific needs and concerns of women and vulnerable groups identified and considered?

These questions are intended to serve as guidance for assessing whether or not meaningful public participation has occurred.

STEP 4: PUBLIC PARTICIPATION IN THE REVIEW OF THE EIA REPORT AND EMMP

Following the finalization of the EIA report and EMMP, they are formally submitted to the EIA authority for review. The review of the EIA report and EMMP is undertaken by the EIA authority in accordance with the country's laws and regulations. The review process needs to ensure the completeness, accuracy and quality of information contained in the EIA report. The review is also to check that the EIA report has addressed the ToR, followed the public participation plan (and other appropriate processes), and includes an EMMP that comprehensively addresses the potential environmental and social impacts. If the project proposal involves any resettlement or compensation for livelihood loss, these will also have to be reviewed by the EIA authority (or the appropriate government authority).

The EIA authority is responsible for facilitating opportunities for PAP and other stakeholders to provide feedback on the draft EIA report as inputs to the final review. The EIA authority has the primary responsibility for conducting the final review of the EIA report, including making sure that relevant sector agencies and technical experts are involved, as appropriate.

4.a. PURPOSE OF PUBLIC PARTICIPATION IN THE REVIEW OF THE EIA REPORT AND EMMP

The EIA authority is responsible for reviewing the submission of the EIA report, and making recommendations on whether to approve, require amendments to, or reject outright the report. The EIA review should be made independently, transparently, and on the basis of complete information and scientific evidence. Accordingly, a clear review process involving opportunities for public participation facilitates an effective EIA review, particularly under circumstances where information may be limited.

At this review step, the responsibility for facilitating public participation, and the target audience for PAP and other stakeholder input, shifts from the proponent (and their EIA consultant) to the EIA authority. The role of the project proponent and the EIA consultant is limited at this step to:

- responding to queries;
- amending the EIA report in response to review comments; and
- presenting the findings of the EIA in public participation events.

Public participation is critical at the EIA review step to ensure that there is an independent avenue for PAP and other stakeholders, including the general public, to transmit their views to the EIA reviewers and, ultimately, the decision-makers. This enables stakeholders to be engaged properly in the process, and increases the certainty that decision-makers consider all perspectives in the final decision. Public participation at this step also needs to ensure that feedback is provided to stakeholders on how their perspectives were considered in the decision-making process.

Important considerations for the EIA authority in reviewing the EIA report and recommending whether or not it should be approved include, but are not limited to:

- the level and quality of public participation undertaken throughout the preparation of the EIA, including consistency with the public participation plan;
- PAP and other stakeholder views on the project proposal, including the EMMP and any compensation proposed;
- how PAP and other stakeholder concerns and comments were addressed in the EIA investigation and EIA report;
- whether the proposed mitigation measures and EMMP are likely to avoid, reduce, repair and/or offset the impacts;
- the relevance and value of project commitments (i.e. those proposed social benefits in addition to the EMMP measures);
- consistency with broad sustainable development objectives;
- consistency with the scoping report and approved EIA ToR; and
- conditions that should be attached to an approval (in addition to the commitments in the EIA and EMMP).

The EIA authority should prepare a clear recommendation on the EIA report that includes summaries of:

- the key issues;
- the public participation undertaken by the project proponent and EIA consultant;
- how the public input was addressed in the EIA;
- the public participation arranged by the EIA authority as part of the review of the EIA; and
- how public submissions were considered during the EIA review and development of the recommended decision.

4.b. LEVEL OF PUBLIC PARTICIPATION EXPECTED

The public should have the opportunity to comment on the EIA report and have those comments considered by the EIA authority as a key factor in the decision-making process. Accordingly, the minimum levels of public participation expected at the EIA review step are the consult and involve levels on the public participation spectrum.

This requires ensuring that:

- all information about the EIA is publicly available – both electronically on the internet and in hard copy form;
- sufficient time is provided for members of the public to prepare and lodge submissions after the disclosure of the EIA report and invitation to comment;
- various methods for soliciting and submitting comments on the EIA report may be used; and
- sufficient time is provided to read, consider, and address all lodged submissions during the deliberations. The time required will vary depending on the resources available to the EIA authority, but it should be noted that reading, considering, and responding to potentially hundreds of submissions on an EIA can take one person many days of uninterrupted work.

As part of ensuring that all information about the EIA is publicly available, the EIA authority should ensure engagements at which:

- the government explains overarching policy objectives and the EIA decision-making process;
- the proponent and/or EIA consultant presents the findings of the EIA;
- members of the public have the opportunity to express their views on the EIA; and
- the EIA authority records all comments, whether written or verbal, made by attendees for consideration during the review of the EIA and preparation of a recommendation for the decision-maker.

Depending on the nature, scale and location of the proposed project, there may need to be multiple consultation engagements to ensure PAP and other stakeholders at the local, sub-national (i.e. provincial or state) and national levels are reached. As

indicated in previous steps, specific arrangements will be needed to consult with women, ethnic minorities, and vulnerable groups to address their particular needs.

Table 9: EIA review step engagement summary

Nature/ objective of engagement	Who should be Involved?	Who is responsible for arranging the engagement?	What are the desired outcomes?
Local level engagement and site inspection	PAP Local CSOs Local authorities Relevant ministries Project proponent and EIA consultant (to present the EIA and answer questions only) Translator/s	EIA authority in collaboration with the local authorities – costs paid for by the project proponent	<p>To ensure PAP understand that the final decision on the EIA will be made by the EIA authority independently from the project proponent and EIA consultant.</p> <p>To ensure that PAP and other stakeholders understand the EIA report, including the EMMP, explanation of the findings and analysis should be presented in non-technical terms that can be readily understood.</p> <p>To provide an immediate opportunity for – and open requests for ongoing submissions from – PAP and other stakeholders regarding the EIA to be considered in its review</p> <p>To give the EIA authority and key decision-makers an opportunity to visit the proposed project site and gain an understanding of local issues</p>
Sub-national and/or national level engagement(s) (if necessary)	PAP Local and national CSOs Relevant ministries Local authorities International organizations (if relevant) Translator/s Media	EIA authority, in collaboration with other relevant ministries – paid for by the project proponent	<p>To ensure that all interest groups have an understanding of projects of regional and/or national significance, as well as an opportunity to contribute their perspectives</p>

4.c. INFORMATION TO BE PROVIDED AND COLLECTED

It is the responsibility of the EIA authority to ensure that the final EIA report (along with associated documents and appendices, including the EMMP) is made publicly available as soon as it is received. Key documents that (at a minimum) should be available publicly at this step include:

- the final EIA report, EMMP and other associated documents (e.g. compensation and resettlement plan), including a concise, non-technical summary report;
- the scoping report, approved EIA ToR, and public participation plan, which should already be public.

All publicly released documentation (from all steps in the EIA process) should be available on the EIA authority's website, as well as on the websites of the project proponent and EIA consultant. This documentation should also be available in hard copy form for members of the general public to access for free in multiple locations, including:

- the project proponent's and EIA consultant's offices;
- at least one neutral venue near the project location, such as a local authority office or community facility;
- local and/or national authority offices in major urban centers; and
- the EIA authority's office.

Announcements about the availability of the EIA report and associated documentation – as well as a formal invitation to submit comments to the EIA authority for consideration in its review – should be made in multiple forms and media to maximize coverage. These announcements must be made with sufficient time for members of the public to consider the EIA report and prepare submissions. The methods used will vary depending on the local circumstances, but could include:

- radio and television announcements;
- newspaper advertisements;
- SMS messages; and/or
- signage at and near the proposed project site.

All written feedback, comments and suggestions received during the review should be summarized and made available to PAP and other stakeholders. This should also be open to the public and accessible online.

Good Practice Example – EIA Review

In Cambodia, the Ministry of Environment convenes an inter-agency review meeting for submitted EIA reports involving other relevant government ministries. In addition, non-governmental organizations are also invited to participate and share their comments about specific project proposals, and to communicate specific concerns from potentially affected communities to the review panel. Comments from the meeting participants on the EIA report are documented in a joint letter and shared with the project proponent, to be addressed, before the EIA report is approved. A mechanism such as this provides an opportunity for stakeholders to be involved in the EIA review.

4.d. HAS PUBLIC PARTICIPATION AT THE EIA REVIEW STEP BEEN MEANINGFUL?

At the end of the EIA review, once a recommendation has been made to approve, revise, or reject the EIA, the project proponent, EIA authority, PAP and other stakeholders should all be able to determine whether any public participation undertaken has been meaningful at the review step. The following questions should be considered by all stakeholders. The answers to these questions will help determine if the objectives for meaningful public participation in the EIA review step have been adequately met.

- Were the public's views on the EIA solicited during its preparation?
- How were these views addressed in the EIA report?
- How were the EIA report and associated documents made publicly available?
- How were the public's views on the EIA report solicited during the review process?
- Was sufficient time provided for public comment?
- How were the public's views on the EIA considered in the review and in the preparation of recommendations for the EIA decision-maker?

These questions are intended to serve as guidance for assessing whether or not meaningful public participation has occurred.

STEP 5: PUBLIC PARTICIPATION IN THE DECISION-MAKING ON THE EIA REPORT AND EMMP

Once the EIA authority has completed its review of the EIA report, a formal decision will need to be made on whether or not the EIA report should be approved. The decision on an EIA report – whether to approve, require amendments to, or reject outright – ultimately rests with government. This is a decision that should be made independently, transparently, and on the basis of complete information and scientific evidence.

Once a decision has been reached, the EIA authority should inform the public and relevant stakeholders of the decision, including a brief summary and any conditions associated with this approval.

5.a. PURPOSE OF PUBLIC PARTICIPATION IN DECISION-MAKING

The purpose of public participation in the EIA decision step is to inform stakeholders of the government's decision and to provide a mechanism for appeal if warranted. Once a decision is made on the EIA report, the decision must be publicly released along with the reasoning as soon as is practicable.

The public and project proponent should both have access to an appeals process. If an EIA is not approved, the project proponent may have the opportunity to appeal the decision and/or to revise and resubmit the EIA report. In this case, it is important that the general public continues to have access to updated information on the state of the EIA and an opportunity to be engaged on subsequent steps. If an EIA is approved, PAP and other stakeholders may have the opportunity to appeal the decision and/or any conditions attached to the approval. The specific arrangements and mechanisms for appeals processes will vary amongst the countries.

5.b. LEVEL OF PUBLIC PARTICIPATION EXPECTED

The focus of public participation at the decision-making step is on ensuring PAP and other stakeholders are fully informed of the outcome of the EIA, including the EMMP, approval conditions and decision reasoning of the EIA authority. This includes ensuring they are aware of any opportunities for appeal or reconsideration of the decision. Accordingly, the level of public participation expected at the decision step is the inform level on the public participation spectrum.

Countries that adopt the principles of FPIC in relation to project proposals that could impact indigenous peoples may require that EIA reports demonstrate that potentially-affected indigenous peoples have given their consent to the EIA analysis and findings as a condition of approval. This could be applied during the EIA report preparation or during the review and decision-making steps. Such an approach would in practice raise the level of indigenous peoples' participation in the decision-making step to the empower level. As indicated in previous steps, specific arrangements may be needed to consult with women, ethnic minorities, and vulnerable groups to address their special needs.

5.c. INFORMATION TO BE PROVIDED AND COLLECTED

As soon as a decision is made, it should be released publicly, along with the reasons behind the decision, including explaining how public submissions were considered in the decision-making process. The official decision-maker (e.g. Minister or head of department), and decision-making process, should also be made public. In addition, the EIA authority should provide a written response to submissions and comments lodged during the EIA report review step. This is so the community is satisfied that their concerns have been considered.

The public needs to be aware at this step of any opportunities to appeal the decision. This includes being made aware of any appeal that may be lodged by a project proponent if the EIA report is not approved, along with full information about how the appeals process operates.

5.d. HAS PUBLIC PARTICIPATION AT THE EIA DECISION STEP BEEN MEANINGFUL?

Once a final decision has been made on whether or not to approve an EIA report, the project proponent, EIA consultant, PAP and other stakeholders should all be able to determine whether any public participation undertaken has been meaningful at the decision step. The following questions should be considered by all stakeholders. The answers to these questions will help determine if the objectives for meaningful public participation in the decision-making step have been adequately met.

- Has the final decision been publicly released, including on the internet and via other media, along with the reasons for the decision?
- Have all conditions of any approval been publicly released?
- How have public submissions and views considered during the EIA review and decision-making process been responded to?
- Does the public understand the final decision and have the opportunity (and sufficient information to decide whether or not) to appeal the decision?

These questions are intended to serve as guidance for assessing whether or not meaningful public participation has occurred.

STEP 6: PUBLIC PARTICIPATION IN PROJECT MONITORING, COMPLIANCE AND ENFORCEMENT

Once a decision has been made on whether to approve an EIA report or not, the 'front-end' steps of the EIA process are complete. If the EIA report is approved and an environmental compliance certificate (ECC) or similar certificate issued, then, subject to any other regulatory requirements (e.g. permits from line agencies, etc.), the project may proceed to implementation. A critical follow-up step is to ensure that the provisions in the ECC are fully incorporated into relevant contracts between the project proponent, sub-contractors, and others, in addition to other permits and obligations.

This step addresses public participation during project implementation (including pre-construction, construction, operation, decommissioning, and rehabilitation) after the EIA report has been approved (and any other regulatory processes completed). Sometimes referred to as post-decision, auditing, monitoring, evaluation, compliance, and/or enforcement, it is essential for following up on the specific outcomes of the EIA process and for ensuring compliance with the permitted activities and outcomes for a project, required management and mitigation measures, and acceptable project impacts.

Given that project implementation may occur over a long timeframe and vary depending on the nature of the project, this section provides broad guidance for public participation that should be further developed on a case-by-case basis.

It is during the project implementation that the impacts will start to be felt by PAP. As the project gets underway, there should be opportunities for PAP and other stakeholders to ensure that the project proponent (including its sub-contractors) fulfils all the conditions of the approval or permit and complies with the obligations and commitments made during the EIA process. In particular, the EMMP serves as a key reference for monitoring expected mitigation measures and project conditions. The results from monitoring, compliance, and enforcement of approved EIAs and EMMPs can help improve the EIA monitoring system. The EMMP will have a section describing public participation.

6.a. PURPOSE OF PUBLIC PARTICIPATION DURING PROJECT MONITORING, COMPLIANCE AND ENFORCEMENT

For projects that have an EIA approved and proceed to implementation, it is vital both for the project's environmental and social outcomes and for the integrity of the EIA system that the project construction, operation, and eventual decommissioning comply with the EIA report, EMMP, and any conditions of approval issued by the EIA authority (and any other relevant authorities).

To ensure this compliance, and to achieve the commitments in the EIA report and EMMP, a monitoring system is required that involves both internal monitoring by the project proponent (or an expert third party) and independent monitoring by external parties. This external monitoring could be undertaken by either government agencies (national or sub-national level) or local communities, or both.

Monitoring is a continuous activity to be undertaken throughout the life of project implementation, including through the point of decommissioning. Monitoring will help to satisfy the community that the project is being operated in accordance with the conditions of approval. It also helps to respond to and correct issues and concerns that may arise during implementation before serious consequences occur. Monitoring also enables the identification of:

- any non-compliance with, or failure to implement, measures in the EIA report, EMMP and other contractual agreements;
- any weaknesses in mitigation and management measures (i.e. measures may be being implemented as per the EIA report and EMMP, but not resulting in the anticipated avoidance or mitigation of impacts);
- any new impacts that may not have been included in the EIA report, as well as appropriate mitigation measures and associated amendments to the EMMP; and
- findings and experience that may be relevant for future EIAs on similar projects or projects in similar locations.

The EMMP should clearly spell out the public participation processes that will apply to the monitoring of the project's implementation, including roles and responsibilities of relevant stakeholders. There also needs to be a mechanism to ensure that these public participation processes in the EMMP are undertaken during the project implementation.

Should the monitoring discover a lack of compliance or breaches of conditions, mechanisms to enforce compliance need to be readily available and understood by the project proponent, as well as PAP and other stakeholders.

Good Practice Example – Monitoring

A large chemical company in Thailand aims to install a two-way communication approach with a goal of 100% community acceptance by 2020. The company has created space for discussions through community development projects with a Community Advisory Panel (CAP), with the intent to bolster the confidence of communities near the company's facilities. Community members can ask questions and provide comments to the CAP, which then shares the feedback with company representatives. Communities can also raise specific concerns, which the company further develops into appropriate community development projects. Since the first CAP was formed, there have been a total of 24 meetings and a 25% growth in community acceptance between 2006 and 2014.

6.b. LEVEL OF PUBLIC PARTICIPATION EXPECTED

In many projects, the project proponent will want the local community to have a sense of ownership in the project and to be invested in its success. The specific level of potential public participation in monitoring a given project will depend on what is appropriate for the particular project circumstances. It may range from ensuring the public is informed, through establishing independent monitoring arrangements that citizens can access and provide feedback (inform and consult levels), to collaborative project monitoring councils that are overseen jointly by project officials and community representatives (involve and collaborate levels). The public can report on any environmental incidents, pollution violations, etc. to relevant authorities through established grievance redress mechanisms.

For larger projects that could have significant impacts, including those with long construction periods (months or years), some sort of formal Community Consultation Committee should meet on a regular basis. PAP should be well represented in such a Community Consultation Committee and PAP should be allowed to choose their own representatives. CSOs should also be represented. The project proponent should also be represented, to allow comments and complaints to be dealt with quickly. As with all aspects of an EMMP, any such mechanisms should be properly budgeted. A Community Consultation Committee should involve and collaborate with (and maybe even empower) PAP and other stakeholders so that problems and issues are dealt with quickly and efficiently. As indicated in previous steps, specific arrangements will be needed with women, ethnic minorities, and vulnerable groups to ensure that their particular needs are addressed.

While enforcement actions are decisions of the relevant government ministries, PAP and other stakeholders must have clear access to complaint mechanisms. Such complaint mechanisms must be independent and free from reprisal.

Prior to Construction

The project proponent should maintain the public participation plan during the pre-construction and construction phases. The project proponent and any construction contractors should arrange an engagement with PAP before any construction works begin on site. This engagement should provide the details of the proposed construction schedule and any relevant information (e.g. site specific EMMP and public participation plan). Details should be provided on issues like the number of trucks and construction vehicles, the number of works, the hours of construction, how long the construction period will last and the possible impacts to PAP. It is recommended to invite PAP and other interested stakeholders to a pre-construction 'walk-through' of the construction site. This helps in site familiarity, identifying site issues and the establishment of communication channels with relevant site management staff.

Construction

The project proponent should implement the detailed public participation plan during the construction phase. This should provide details of any mechanisms for liaising with the local community (such as a Community Consultation Committee) and for grievance redress.

Operation

The operational phase will last the life of the project and shall have its own dedicated section in the EMMP and related public participation plan. This EMMP will include the details for the management of the environmental and social impacts of the project during normal operations. During the operational phase, regular monitoring will be required of any pollutants and waste produced by the project's operation.

Decommissioning and Rehabilitation

The decommissioning phase of a project generally involves deconstruction, waste disposal and site rehabilitation. Depending on the nature of the project, this may require a dedicated section in the EMMP. Public participation during this phase should also involve opportunities for PAP and other stakeholders to contribute to plans for the rehabilitation and future of the site.

Good Practice Example - Monitoring During Operations

An oil and gas company operating in Myanmar provided support for members of village development councils to be trained in monitoring and evaluation, among other skills. The community volunteers introduce and manage the grievance mechanism within their community and report the findings to the company and other stakeholders. Company representatives find that putting responsibility in the hands of the communities also helps them to better understand the company's perspective, challenges, and lessons learned. The company has also implemented a grievance mechanism to enable local communities to have a voice and to ensure impacts associated with operations are monitored and effectively addressed. Tracking of the grievance mechanism's performance against key indicators has indicated that the company was meeting targets for the average time to acknowledgement (3 days), and exceeding targets for the level of satisfaction reported by complainants on the grievance process and outcome (50%). The mechanism also helped the company identify where progress still needs to be made, such as in terms of continuing to improve stakeholder understanding of this communication channel.

Good Practice Example - Monitoring during Decommissioning

A mining company in Laos conducts periodic socio-economic surveys of local households and community leaders to better understand issues and community living standards. The surveys provide an important mechanism to improve the understanding of the needs and expectations of host communities, to inform priorities and initiatives, and to assess the extent that stakeholders believe their concerns are effectively being addressed. Recent survey results have reinforced the importance of realigning the company's community development fund program to focus on specific villages where issues are of greatest concern, in the lead up to and following the closure of the project.

6.c. INFORMATION TO BE PROVIDED AND COLLECTED

The general public should have access to a wide range of information on the project implementation, through clearly understood and readily available avenues. This information covers monitoring reports, financial information, and compliance and enforcement actions.

Regular monitoring reports shall be made publicly available, both on the project owner's website(s) and, for any reports lodged with the EIA authority (or other relevant government agencies), on government websites. Reports should also be kept for public access at the offices of local authorities, provincial environmental departments and project proponents. Monitoring reports should provide both technical data and accurate summaries of information that can be understood by the general public.

The project proponent should, subject to national laws, regularly publish and update financial information about the project's expenditures on:

- mitigation and management measures;
- monitoring systems;
- project commitments; and
- the overall project (to enable an understanding of the proportion of expenditure going towards mitigation and management measures, and towards community benefits).

For enforcement measures to be meaningful, and for interested parties to be able to utilize complaint mechanisms, PAP and other stakeholders must have:

- information about breaches of compliance;
- information about remedial measures; and
- access to updated EMMPs and project approval conditions.

In summary, a wide range of information should be made available to PAP and other stakeholders during project implementation (including pre-construction, construction, operation, decommissioning, and rehabilitation) including:

- EMMPs and any updates
- Compliance with specified project conditions and commitments
- Monthly and quarterly activity reports
- Actual emissions compared to standards

- Levels of toxic waste and pollutant releases and transportation of hazardous waste
- Community Consultation Committee (or other liaison) meeting minutes and reports
- Action steps and responses to community concerns
- Financial reports (including on the implementation of the EMMP)

The information published during the project implementation needs to be readily available to PAP and other stakeholders, and published in a form that can be understood by members of the general public. This information should also be always available to members of the public on request.

6.d. HAS PUBLIC PARTICIPATION AT THE PROJECT MONITORING, COMPLIANCE AND ENFORCEMENT STEP BEEN MEANINGFUL?

At any point during the project implementation following an EIA approval (whether prior to construction, construction, operation, or decommissioning and rehabilitation), the project proponent and any subcontractors, EIA authority, PAP and other stakeholders should all be able to determine whether any public participation undertaken is or has been meaningful. The following questions should be considered by all stakeholders. The answers to these questions will help determine if the objectives for meaningful public participation in project monitoring, compliance and enforcement have been adequately met.

- Is the local community aware of the status of the project?
- Are project implementation and monitoring reports regularly available?
- Where can project implementation and monitoring reports be located?
- Is the project being implemented consistently with all laws, approvals and conditions, including the EIA and the EMMP?
- Are the project mitigation and management measures addressing impacts to the extent anticipated in the EIA?
- Are key indicators showing any environmental improvement or deterioration?
- Does the public participation plan in the EMMP cover all phases of project implementation and is it regularly updated?
- Are there any joint monitoring activities involving PAP and other stakeholders?
- Is there a formal Community Consultation Committee or other form of community liaison?
- Are PAP and other stakeholders aware of grievance mechanisms to make complaints or raise concerns about project implementation?
- Have any grievances been raised and, if so, how have they been addressed?

These questions are intended to serve as guidance for assessing whether or not meaningful public participation has occurred.

ANNEXES

ANNEX I

REGIONAL TECHNICAL WORKING GROUP ON EIA: BACKGROUND AND MEMBERS

In recognition of the need for more effective social safeguards and environmental protection in the context of increased investment and trade under the emerging ASEAN Economic Community, as well as noting the ongoing reform efforts related to Environmental Impact Assessment (EIA) across the region, representatives of the Mekong countries of Cambodia, Laos, Myanmar, Thailand, and Vietnam recommended the establishment of a Regional Technical Working Group (RTWG) on EIA in December 2014 at a regional workshop facilitated by the Mekong Partnership for the Environment (MPE),²³ together with the Asian Environmental Compliance and Enforcement Network (AECEN).²⁴

A subsequent event in May 2015 helped advance these discussions on regional collaboration and inform the details of a Terms of Reference (ToR) for the RTWG. In addition, selection criteria for its members were also drafted. The overall goal of the RTWG is to strengthen regional cooperation on EIA to contribute to sustainable development in the Mekong region countries of Cambodia, Laos, Myanmar, Thailand, and Vietnam, and the broader ASEAN region, with specific objectives to:

1. Develop regional guidelines for effective public participation in EIA;
2. Promote information sharing on best practices in EIA; and
3. Promote the mainstreaming of the regional guidelines and best practices of public participation in EIA processes in the Mekong countries and ASEAN.

Based on the selection criteria and ToR, nominations for RTWG membership were sought from government ministries, while civil society members were selected through an open application process. The RTWG was officially formed in August 2015 with 25 representatives from government agencies and non-governmental organizations from the Mekong countries of Cambodia, Laos, Myanmar, Thailand, and Vietnam, as summarized in the figure below. Membership is comprised of five (5) members per country, with three (3) representatives from government – two (2) from the national EIA department, and an additional one (1) from a national planning or investment agency – and two (2) non-government representatives from national NGO/civil society organizations or academia. A national technical advisor for each country was also later recruited based on criteria and a process established by the RTWG members.

23. <http://www.pactworld.org/local-updates/mekong-partnership-environment>

24. <http://www.aecen.org/events/environmental-impact-assessment-policy-and-practice-mekong-region-safeguarding-sustainable-de>; and <http://www.aecen.org/node/1224>

Members of the Regional Technical Working Group (RTWG) on Environmental Impact Assessment (EIA)



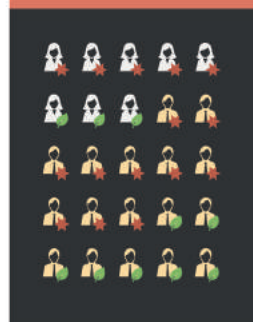
Total members **25**

Organization

15 Government
10 NGO

Gender

8 women
17 men



The Guidelines on Public Participation in EIA in the Mekong Region were drafted during four meetings of the RTWG on EIA from September 2015 – July 2016. Following the development of the first draft at the end of July 2016, the Guidelines were then translated into the five Mekong languages and made available for public and online comment from August 22 until October 31, 2016. National consultation meetings were held across the region during October 2016 to solicit feedback and comments on the draft Guidelines from government agencies, NGOs, project proponents, EIA consulting firms, academics, and other interested stakeholders. The consultation meetings were held as follows:

- Hanoi, October 5
- Ho Chi Minh City, October 7
- Yangon, October 14
- Bangkok, October 19
- Vientiane, October 24
- Phnom Penh, October 28

In total, 488 individuals participated in the national consultation meetings and online platform consultation, with a total of over 2,200 comments received. These were organized into a database, synthesized, and incorporated into a revised version of the Guidelines, which was finalized at the final RTWG meeting in January 2017.

Members of the RTWG on EIA:

Cambodia

- Mr. Danh Serey, Director, Department of Environmental Impact Assessment (DEIA), Ministry of Environment (MOE)
- Mr. Chea Leng, Deputy Director, Department of EIA, Ministry of Environment (MOE)
- Mr. Sochinda Seng, Director, Environmental Impact Assessment Department, Council for the Development of Cambodia (CDC)
- Dr. Tek Vannara, Executive Director, NGO Forum on Cambodia
- Mr. Mam Sambath, Executive Director, Development and Partnership in Action (DPA)

Laos

- Mr. Orlahanh Bounghaphalom, Director of Division of Environmental Management and Monitoring Projects, Department of Environmental and Social Impact Assessment (DESIA), Ministry of Natural Resources and Environment (MONRE)
- Mr. Somvang Buttavong, Director of Environmental Assessment Centre for Energy Projects, DESIA, MONRE
- Mr. Sisomphone Phetdaoheuang, Deputy Director General, Department of International Cooperation, Ministry of Planning and Investment (MPI)
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- Mr. Manolinh Thepkhamvong, Lawyer, Law and Development Partnership (LDP)

Myanmar

- Mr. Htin Aung Kyaw, Assistant Director, Natural Resources Conservation and EIA Division, Environmental Conservation Department (ECD), Ministry of Natural Resources and Environmental Conservation (MONREC)
- Ms. Yi Yi Cho, Staff Officer, Natural Resource Conservation & EIA Division, ECD, Ministry of Natural Resources Environmental Conservation (MONREC)
- Ms. Daw Yi Yi Htwe, Deputy Director, Directorate of Investment and Company Administration, Ministry of Planning and Finance / Myanmar Investment Commission (MIC)
- Ms. Naw Ei Ei Min, Director, Promotion of Indigenous and Nature Together (POINT)
- Mr. Htun Paw Oo, Central Committee Member, Forest Resource Environment Development and Conservation Association (FREDA)

Thailand

- Ms. Ganda Piyajun, Environmental Impact Evaluation Expert, Office of Natural Resources and Environmental Policy and Planning (ONEP), MONRE
- Ms. Saowapa Hinjiranandhana, Chief of Developing and Monitoring Section, (ONEP), MONRE
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- Mr. Suphakit Nuntavorakarn, Public Policy Manger, Healthy Public Policy Foundation (HPPF)
- Dr. Arpa Wangkiat, Lecturer, Department of Environmental Engineering, Rangsit University

Vietnam

- Mr. Pham Anh Dung, Deputy Director of Department of Appraisal and Environmental Impact Assessment (DAEIA), Vietnam Environment Administration (VEA), MONRE
- Mr. Nghiem Viet Hai, Senior Technical Staff, DAEIA, VEA, MONRE
- Mr. Nguyen Tuan Anh, Deputy Director General of Department of Science, Education, Natural Resources and Environment, Ministry of Planning and Investment (MPI)
- Ms. Nguyễn Ngọc Lý, Director, Center for Environment and Community Research (CECR)
- Mr. Trinh Le Nguyen, Executive Director, People and Nature Reconciliation (PanNature)

Previous members of the RTWG on EIA who also contributed to this effort include:

- Mr. Houmphanh Soukprasith, Deputy Director General; Department of International Cooperation; Ministry of Planning and Investment (MPI), Laos
- Mr. Soe Win Hlaing, Vice-Chairperson, Forest Resource Environment Development and Conservation Association (FREDA), Myanmar
- Mr. Sa Aung Thu, Assistant Director, Natural Resource Conservation & EIA Division, Environmental Conservation Department (ECD), Ministry of Environmental Conservation and Forestry (MOECAF), Myanmar
- Ms. Inthira Eaumonlachath, Environment Expert, Office of Natural Resources and Environmental Policy and Planning (ONEP), MONRE, Thailand
- Ms. Rosalind Amornpitakpun, Environmentalist, Senior Professional Level, Office of Natural Resources and Environmental Policy and Planning (ONEP), MONRE, Thailand

Additional technical assistance has been provided by national advisors:

- Mr. Sok Phanna, Cambodia
- Ms. Khamsy Chansamai, Laos
- Mr. Martin Cosier, Myanmar
- Ms. Parichart Siwaraksa, Thailand
- Dr. Le Hoang Lan, Vietnam

And international experts, including:

- Mr. Matthew Baird, environmental law expert
- Dr. Peter King, Institute for Global Environmental Strategies
- Ms. Robin Coursen, US Environmental Protection Agency
- Ms. Vesna Kolar Planinšič, Ministry of Environment and Spatial Planning, Slovenia, European Union

ANNEX II

KEY TERMS AND DEFINITIONS

This section provides definitions for some key terms and concepts relating to public participation and EIA, as they are used in these Guidelines. The Mekong region countries sometimes use different words and phrases for similar concepts, and sometimes define words and phrases differently. The definitions in this section are not intended to replace any of these country-specific definitions or be used for any legal purpose. Rather, they are provided to help the users of these Guidelines better understand the usage of the terms and concepts throughout this document.

Adverse Impact – any negative environmental, social, economic, health, occupational safety, or health effect suffered or borne by any entity, natural person, or natural resource, including, but not limited to, the environment, flora, and fauna, where such effect is attributable in any degree or extent to, or arises in any manner from, any action or omission on the part of the project proponent, or from the design, development, construction, implementation, maintenance, operation, or decommissioning of the project or any related activities.

Alternatives – in relation to a proposed project, different realistic and feasible means of meeting the general purpose and requirements of the project (as well as the alternative of not proceeding with the proposal), which may include alternatives to:

- the property on which, or location where, it is proposed to undertake the project;
- the type of project to be undertaken;
- the design or layout of the project;
- the size or scale of the proposed project facilities or operations;
- the technology to be used in the project;
- the operational aspects of the project; and
- any other substantive characteristic or aspect of the project.

Civil Society Organization (CSO) – the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations, including community groups, non-governmental organizations (NGOs), labor unions, disadvantaged groups, charitable organizations, faith-based organizations, professional associations, and foundations.

Environment – in its inclusive sense, the natural, physical, social, health, economic, and cultural aspects of:

- ecosystems and their constituent parts, including people and communities;
- all natural and physical resources;
- the qualities and characteristics of locations, places and areas;
- heritage and amenity values of places; and
- the complex web of inter-relationships between living and non-living components which sustain all life on earth, including the social, health, and livelihood aspects of human existence.

Environmental Compliance Certificate (ECC) – a legal document through which the designated government EIA authority approves an EIA report and/or an EMMP.

Environmental impact – any effect caused by proposed activity on the environment (in its inclusive sense – see definition of ‘environment’) including human health and safety, flora, fauna, soil, air, water, climate, landscape, and historical monuments or other physical structures, or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.

Environmental Impact Assessment (EIA) – a widely-applied and internationally-accepted process of identifying, predicting, evaluating, and mitigating potential impacts (direct, indirect, and cumulative) of development projects on the environment (in its inclusive sense – see definition of ‘environment’) prior to major decisions and commitments being made.

EIA authority – the government administrative unit responsible for administering the country's EIA system, including reviewing and/or approving EIA reports (typically, an EIA department within an environment ministry).

EIA consultant – a qualified third-party expert (organization or individual) contracted by the project proponent to undertake the EIA investigation and prepare the EIA report, as well as any other parts of the EIA process included in the consultant's contract.

EIA decision – the formal decision made by the lawfully determined decision-maker about whether to approve an EIA report (and associated documentation, including the EMMP) or not, noting that other regulatory permits, licenses or approvals may also subsequently be required for the project proposal to proceed to implementation.

EIA investigation – the step of the EIA process that involves identifying and evaluating potential impacts and risks of a project proposal, including the:

- baseline assessment and data gathering;
- consideration of impacts, including cumulative impacts;
- application of a risk assessment methodology;
- application of relevant national and international environmental quality standards and guidelines;
- analysis of alternatives;
- application of the mitigation hierarchy; and
- identification of monitoring requirements.

EIA process – any environmental impact assessment procedure required by national laws and regulations, or any other jurisdiction, including at the regional level.

EIA report – the documentation of all the investigations undertaken in the EIA process and the analysis and findings of the EIA investigation, generally including:

- an executive summary;
- a description of the applicable policy, legal and institutional framework;
- a detailed description of the project proposal, including detailed maps and diagrams;
- a detailed description of the relevant surrounding environment, including socio-economic settings;
- an explanation of the public participation processes undertaken;
- a description and justification of the risk assessment methodology employed;
- details of the impact and risk assessment, including cumulative impacts and any transboundary impacts;
- identification and analysis of project alternatives;
- the application of the mitigation hierarchy to identified impacts and risks;
- an environmental management and monitoring plan (EMMP); and
- attachments with necessary additional technical information about the project proposal and EIA.

Environmental Management and Monitoring Plan (EMMP) – a detailed and comprehensive plan (or series of plans) for all phases of a project (including construction, operation, decommissioning and closure) that presents all relevant commitments, environmental standards, mitigation measures, monitoring requirements and other environmental and social requirements, along with a detailed budget, timeframes and allocation of responsibilities.

Grievance mechanism – process by which people affected by a project or company's operations can voice their concerns to the company, or to the government, for consideration for redress.

Impact – the probable effects or consequences on the environment of a project proposal; impacts can be direct or indirect, cumulative, and positive or adverse or both, and include ecological, social, cultural, economic, livelihood, health, and safety issues.

Mitigation hierarchy – a framework for managing risks and potential impacts of a project proposal that involves a logical sequence of actions to first anticipate and avoid impacts, then minimize risks and impacts where avoidance is not possible, then rehabilitate or restore the environment when impacts occur, and finally offset or compensate for any significant residual impacts.

Monitoring – direct and indirect activities, undertaken internally or externally, to identify actual activities, impacts and overall performance of a project and the comparison of these findings to commitments in the EIA report and EMMP.

Project Affected People (PAP) – a natural person, legal entity, or organization who/which is directly or indirectly affected by the project proposal (or likely to be affected) including, but not limited to, effects in the nature of legal expropriation of land or property, changes of land category, and impacts on the ecological, environmental or socio-economic systems in the settlement areas of such person, entity, or organization.

Project proponent – any natural person, legal entity, or organization, from the public or private sector, undertaking a project or any aspect of a project (including study, survey, design, development, pre-construction, construction, operation, decommissioning, closure, and post closure) and during the period of such undertaking which has an ownership interest (legal or equitable) in the project, or which intends to derive financial or other benefits from the project of the sort which an owner would ordinarily derive. (Synonymous with project developer or project owner.)

Public – one or more natural or legal persons, regardless of citizenship, residence, or other form of legal registration.

Public Participation – the process of involving those who are directly and indirectly affected by a decision in the decision-making process, promoting sustainable decisions by providing participants with the information they need to be involved in a meaningful way, and communicating to participants about how their input affects the decision (Synonymous with Stakeholder Engagement.)

Residual Impacts – predicted or actual impacts that remain after mitigation measures have been applied, including after project closure.

Scoping – the process to determine the scope of the EIA and the data needed to be collected and analyzed in order to assess the impacts of the project proposal on the environment, which results in establishing a terms of reference (ToR) for the EIA.

Screening – the process of reviewing a project proposal to determine whether an environmental impact assessment, or any other form of environmental assessment, is required before the project can proceed to implementation.

Stakeholder – persons, groups, or communities external to the core operations of a project who may be affected by the project proposal, or have interest in it, at any stage in the project cycle (whether planning and construction, operation, or closure and decommissioning); this includes individuals, vulnerable groups, businesses, communities, other government ministries, local government authorities, academia, national and international NGOs, the media, and people who are concerned about the project proposal that may not live in the area directly impacted by the project.

Terms of Reference (ToR) – a description of all technical requirements and issues to be addressed when carrying out an EIA, including data gathering and analysis and public participation processes, in accordance with the scoping report prepared for the EIA. This term does not refer to the ToR for the EIA consultant.

Transboundary – refer to governance arrangements that cross administrative and/or political regions at all levels, not only across sovereign state boundaries as inextricably bound up with the terms 'jurisdiction' and 'control'.

Transboundary impact – any impact, not exclusively of a global nature, within an area under the jurisdiction of an affected country caused by a proposed activity, the physical origin of which is situated wholly or in part within the area of jurisdiction of another country.

Vulnerable group – any group of persons who are disadvantaged in social, economic, cultural, religious, or political arenas, such that they are blocked from or denied full access to various rights, opportunities, or resources that are normally available to others and are thereby prevented from participating fully in the economic, social, and political life of the society in which they live (including, but not limited to, ethnic minorities, women, people with disabilities, children, and the elderly).

ANNEX III PROVISIONS FOR PUBLIC PARTICIPATION IN MEKONG EIA PROCEDURES (AS OF MARCH 2017)

The following tables provide a summary of the provisions for public participation in EIA in each of the lower Mekong countries, as adapted from the “Mekong EIA Briefing: Environmental Impact Assessment Comparative Analysis In Lower Mekong Countries” http://www.pactworld.org/sites/default/files/local-updates-files/MPE_Mekong_EIA_Briefing_Final.pdf

The reference cited above also includes a summary of EIA laws, policies, and regulations and related environmental legislation as well as information concerning access to information provisions.

Country	Screening	Scoping	EIA Investigation and Report Preparation	Review of the EIA Report and EMMP	Decision-making on EIA Report, issuing of ECC	Monitoring, compliance, and enforcement
Cambodia (EIA Sub-Decree, current provisions)	All projects require: EIA; Initial Environmental Impact Assessment (IEIA); Protection Contract (EPC). Various Prakas specifically provide for the screening in the mining and construction sectors. Public participation at the screening stage is required through a site visit with project proponent, local agencies and PAPs.	Yes. Consultation is required. Projects under \$2 million are determined at the provincial level. Details of these projects are not provided to the MoE.	EIA Sub-Decree “encourages” public participation. Under the Guidelines there are three levels of consultation - local, provincial and national. A Prakas and Guideline on Public Participation provides detailed guidance on meaningful public participation at each step on the EIA process.	Declaration on General Guidelines for Developing Initial and Full EIA Reports (2009) describes that a public participation section of the IEIA/EIA should include provision of project information, feedback from public consultation with affected communities and other stakeholders.	The ECC and EIA will be made publically available following approval. MoE accepts written comments from stakeholders for consideration during Inter-Ministerial Review Meeting of EIA.	A new Prakas under the EIA Sub-Decree is being developed to provide for involvement during the construction, operation and closure of a project. This will include specific provisions for grievance mechanisms.

Country	Screening	Scoping	EIA Investigation and Report Preparation	Review of the EIA Report and EMMP	Decision-making on EIA Report, issuing of ECC	Monitoring, compliance, and enforcement
Cambodia (future provisions proposed under draft Environmental and Natural Resources Code)	All projects will require EPC, IEE or EIA based on screening list.	Scoping will be conducted with PAP. Projects under \$2 million are determined at the provincial level. Details of these projects will be provided to the MoE.	Required under the law. IEE and EIA Report must include details of the process of consultation and views of PAP. Including consideration of alternatives to the project to reduced resettlement and livelihood risk.	Consultation will be required under the law during the evaluation stage by MoE. The EIA Report will be assessed by an Expert Review Committee which will include NGO members.	The EIA report, ECC, and EMMP will be public documents	Right to report grievances. Some projects will have external environmental auditors. A new system for mediation and environmental dispute resolution has been proposed.
Laos	The MONRE Ministerial Agreement (No. 8056) 2014 provides for two categories of projects, IEE or EIA. These are determined by reference to a Screening List.	The project proponent prepares the scope of study and terms of reference in the designated format and pursuant to the relevant technical guideline with the full assurance of appropriate Public Involvement, and submits the report to MONRE for their review and approval, prior to conducting the EIA process. The Guidelines on Public Participation No. 707// MONRE dated February 2013 are currently being revised by MONRE to include participation in the scoping step through to monitoring, compliance and enforcement.	Project proponent is responsible to undertake consultation at village, district and provincial level. EMMP should include consultation with affected people. Public comments are incorporated and addressed in EIA report and EMMP.	During the EIA review process there must be consultation and a site visit at the appropriate level. Public, representative government line agencies at all levels and PAP representatives are invited to participate in evaluation at public consultation meetings. EIA report and EMMP are sent to government line sectors at all levels for review and comment. Complicated projects may require external review by international environmental experts.	The EIA Report and approval is made public and provided to all PAP.	Required to be established by project proponent. Specified right of PAP to participate in monitoring of EMMP. Government line agencies are also invited to participate in the monitoring of EMMP implementation. Updating and revision of EMMP shall include consultation with PAPs especially on compensation and resettlement plans.

Country	Screening	Scoping	EIA Investigation and Report Preparation	Review of the EIA Report and EMMP	Decision-making on EIA Report, issuing of ECC	Monitoring, compliance, and enforcement
Myanmar	All projects are subject to Screening for IEE, EIA, or stand-alone EMMP under the EIA Procedure. A Screening List has been developed. MONREC will make the screening determination.	Both IEE and EIA require consultation with the public and civil society. The Scoping Report must include draft ToR for the technical issues to be included in the EIA/IEE report. This includes details on public consultation.	Must consider views, concerns and perceptions of PAP and other stakeholders. Timely disclosure of all information is required by EIA consultant.	Proponent must arrange meetings. MONREC must provide opportunity for public comment during the review step. Report must be placed on web site within 10 days of lodgment with MONREC.	The EIA Report Review Body is established under the EIA Procedure. It may include CSO participation. The ECC is a public document and is to be made available.	The project proponent must notify MONREC of any breaches (but not the community). Appeal process provided.
Thailand	Projects can require IEE, EIA or EHIA by MONRE notification.	Yes. Public engagement required with PAP and other stakeholders.	One public engagement for draft EIA report is required. Must have 3 meetings or 4 meetings if there is an EHIA required.	ONEP welcomes and considers the concerns and comments from PAP, other stakeholders and the public during EIA review process. The EMMP is considered an integral part of EIA, thus must be presented at public engagements.	An Expert Review Committee reviews and makes a decision on approval of the EIA report (depending on type of project), which is then sent to the relevant Line Ministries for permits.	Multipartite committee established with representatives from PAP and other stakeholders for large-scale projects. More open and extensive engagements in special development areas.
Vietnam	EIA Decree lists projects that must carry out SEA or EIA or develop environmental protection plans. The Line Ministries are responsible for the screening determination.	EIA conducted at "project preparation" stage. Consultation with directly impacted communities is required. MONRE also has 22 technical guidelines for various sectors.	Project proponents are responsible for consultation with those directly affected by the project. Meeting with PAP at commune level. Some industrial projects are exempt from consultation if the consultation at the construction stage.	MONRE evaluation of EIA. Panel may invite representatives from commune, province, PAP. There is no formal requirement that there be consultation at this review stage.	The Appraisal Agency is not required to notify the local commune prior to approval of the EIA report. EIA reports are public documents to be provided to the provincial level offices.	The project proponent is required to carry out all obligations of the EIA approval. Required by Law and Legislation, but unclear procedure and responsibility of stakeholders.

ANNEX IV

PUBLIC PARTICIPATION PLAN TEMPLATE

A typical public participation plan generally includes the following sections and information:

Description of the project: overview of the project, and description of the components of the EIA process and how these relate to the public participation component. A schedule of activities should be included to show how the public participation process will fit into the overall EIA. This will also help communicate the boundaries of public participation in planning, program development or decision processes.

Purpose of the public participation process: explanation of what the public participation process aims to achieve, and what level of public participation will be sought. The level of public concern or interest should be assessed to determine the appropriate level of public participation. It is important to assess the degree to which the public considers the issue significant, as the public will become involved according to its perception of the seriousness of the issue. The participation goals, and the way in which they are set, should be justified in the specific context of the project. The “Spectrum of Public Participation” from the International Association for Public Participation (IAP2) can assist in defining the public’s role in the EIA process. Once the level of participation has been defined, the goals, objectives, and strategies for the plan are developed. Example Goals could include:

- Inform the public of the project and communications strategy throughout the EIA process.
- Consult with the public to obtain feedback on alternatives/options developed for the scoping process and/or decisions for the final EIA.
- Involve the public in the scoping and draft EIA process to assure that their concerns and ideas are considered during this step in the process.
- Collaborate (perhaps partner) with the public on alternatives development, giving consideration to new alternatives or mitigated alternatives.

Key stakeholders: Identification of key stakeholders, including a stakeholder analysis, and resulting in: a) a preliminary list of stakeholders at local, provincial, national and international levels, and b) classification of stakeholders. Identification of PAP and key stakeholders begins by first identifying the potential environmental and social impacts. This includes direct, indirect, and cumulative and even those that may occur later in time. Impacts may also occur due to “connected actions” (for example, an electrical power grid built to bring the power from a hydropower dam project to the plant is a connected action to a hydropower dam project).

A stakeholder analysis matrix is a useful tool to identify different groups in order to develop appropriate strategies to facilitate their meaningful engagement. Such a matrix can be based on combinations of two factors – interest and influence – as follows:

	Low interest	High interest
High influence	Low interest and high influence	High interest and high influence
Low influence	Low interest and low influence	High interest and low influence

Methodologies, tools, and techniques: appropriate methodologies should be selected to reach the goals described above. This section should give details about the nature of the techniques chosen, who will benefit from them, who will apply them, how long they will take and how much they will cost. This section should be updated regularly as the choice of methodologies is finalized.

Key activities and schedule of events: on the basis of the methodologies chosen, a list of key activities can be identified and a schedule of events drawn up. Public information and input need to be timed early enough to provide adequate opportunity to contribute to planning and/or the decision. At this point, practical considerations such as weather, or public holidays and religious festivals, should be taken into account when planning activities. In addition, it may be necessary to train staff, translate materials, and pre-test activities. These issues may significantly extend the time and budget required to implement the Plan.

Roles and responsibilities: the roles and responsibilities of everyone involved in the public participation process – including the team of practitioners, the developer, government departments and transboundary partners – should be detailed here.

Budget: the budget for implementing the Plan should be included here, giving details of the costs of staffing and materials. An adequate budget, including staff resources, is critical to the successful implementation of the public participation process, including a situation assessment, outreach activities, and obtaining and incorporating public input.

Monitoring and review: Checkpoints for monitoring and review of the process should be built into the Plan (and included in the schedule of activities), to ensure that the Plan is updated and adapted as the project progresses and new information becomes available, and to ensure that the Plan is being implemented properly.

Reporting: a draft outline of the report structure can help to focus the purpose of the public participation process and to ensure that all the necessary information is gathered.

Post-decision: the Plan should provide for informing stakeholders of decisions taken about the project, and for continuing communication throughout the project implementation.

Public Participation Tools and Techniques

A number of tools or techniques can be used to implement the public participation process.

These include in-person tools (those that involve face-to-face interaction – meetings or workshops, for example) and remote tools (those that do not involve face-to-face interaction – written surveys, social media, or websites, for example). Some examples are provided here:

Tools to inform

- Briefings sheets, Newsletters, Bulletins
- Information Hotline
- Information Repositories
- Information Kiosks for Press and media
- Public Meetings
- Web sites

Tools for generating input

- Poll
- Appreciative Inquiry Processes
- Charrettes
- Computer-Assisted Processes
- Focus Groups
- Interviews
- Study Circles
- Public Meetings/Hearings
- Public Workshops
- World Café

Tools for consensus-building and agreement seeking

- Advisory Boards

ANNEX V

OUTLINE OF A GENERIC STRUCTURE AND CONTENT OF A PROJECT DESCRIPTION

Brief Presentation	Description Notes
1. Sector and subsector	E.g. Energy production, Hydropower.
2. Size	Size can be expressed in terms of area (or length if it is a road or other linear project), production, category/type, number of employees, project investment.
3. Location	Overview map, typically scale 1:200,000 or 1:20,000 depending on type of project. The map should include main natural features, like water bodies, forest, etc. existing infrastructure (roads, bridges, etc.), and human settlements in the proximities of the project. In case of an urban development, sensitive areas (schools, temples, markets, sites or monuments of cultural importance, commercial areas, etc.) should be clearly indicated.
4. Project components	<ul style="list-style-type: none"> • Main production facilities • Internal infrastructure • Ancillary infrastructure and facilities
5. Overall time schedule	<p>Present a diagram with the planned timing of:</p> <ul style="list-style-type: none"> • Studies (including the EIA study) • Permitting/licensing • Concession agreements • Detailed design, contracting • Pre-construction activities • Construction activities • Operations • Decommissioning/closure/post closure
6. Project Organization	Organization chart, management, roles and responsibilities, etc.
Pre-construction and Construction Phases	
7. Activity schedules	Diagram with the main components and their respective main construction activities and related mitigation measures.
8. Location of project components	Site map (1:50,000 or 1:10,000) with location of project components such as roads, camps, mine, processing plant, storage areas, tailing dam, reservoir, power house, transmission line, bridges, etc..
9. Project Characteristics	<p>Description of each of the main characteristics of the project:</p> <ul style="list-style-type: none"> • Materials (amounts, types, sources) • Equipment, machinery • Conceptual design drawings • List the alternatives considered and assessed. Only consider realistic and reasonably feasible alternatives.
10. Labor	<ul style="list-style-type: none"> • Expected workforce, if possible including a short description of workforce per job type • Expected origin of workforce • Type and location of worker accommodation • Health and Safety commitments

Operational Phase	
11. Overview of operations	<p>Brief description of project components including production processes and technologies, facilities and infrastructure.</p> <p>Visual presentation of the completed project (e.g. a freehand drawing, layout).</p> <p>Presentation of production data:</p> <ul style="list-style-type: none"> • Input materials (amounts/year, types, qualities and characteristics, sources) • Water and energy consumption and sources • Outputs: products (amounts, characteristics) by-products, waste and other emissions.
12. Operations schedule	Time diagram presenting the main components and the main operations/processes and their respective mitigation measures.
13. Site layout maps	Site layout maps (1:20,000 or better scale) showing the location of the main operational components.
14. Components	<p>Description of each component:</p> <ul style="list-style-type: none"> • Facilities, technology, processes with simplified flow diagram • Location and visual presentation • Conceptual design drawings • Flow diagram: materials, water, energy, waste and other emissions • Materials handling, storage • Waste and wastewater management • Transport (means, timing, loads, routes)
15. Labor	<ul style="list-style-type: none"> • Expected workforce (if possible workforce per job type) and origin of workforce • Type and location of worker accommodation • Health and safety commitments
Decommissioning / Closure / Post Closure Phase	
16. Overview	Closure plan requirements (strategy, policy, main objectives, time schedule, budgets, etc.)

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www.pactworld.org/mpe

