

MEETING REPORT

DEVELOPING REGIONAL AND NATIONAL GUIDELINES FOR PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

24 February 2016, Best Western Green Hill Hotel, Yangon, Myanmar

MCRB and PACT MPE (Mekong Partnership for Environment) co-organised a discussion of public participation in EIA with the objectives of sharing experience which can be used to guide development of:

1. regional guidelines on public participation in EIA for the Mekong region (Cambodia, Laos, Myanmar, Thailand, and Vietnam);
2. Planned public participation guidelines for the implementation of Myanmar's new EIA procedures.

It was attended by around 40 participants from private sector, including project proponents from the oil and gas and infrastructure sectors, and local and international EIA consultant companies. It was also attended by officials from Ministry of Environment, Conservation and Forests (MoECAF) and members of PACT's Regional Technical Working Group on EIA from MOECAF, and local NGOs, POINT and FREDa (See Annex 1 for more detail of the PACT project).

The workshop heard a [presentation by Christy Owen](#) (PACT/MPE) on the RTWG process, which includes the development of draft guidelines to promote best practice on public participation, drawing on international standards and local experience. The guidelines are intended to be practical and implementable. The case for a regional approach was partly driven by the ongoing moves in each country to introduce or reform EIA processes; the birth of the ASEAN Economic Community; and the strengthening of civil society voices. She noted that these guidelines would be consulted on and finalised over the coming year. The PACT/MPE programme was also supporting national technical advisers in each of the countries and drawing on EU expertise on managing transboundary EIAs; and plans to support awareness raising around EIA and meaningful public participation in Myanmar.

U Than Aye, (Yangon office of ECD, MOECAF) [gave a presentation](#) on the public participation provisions of the Myanmar government's [EIA Procedures](#) which were adopted on 29 December 2015, highlighting the requirements for consultation and disclosure at different stages of the EIA and Initial Environmental Examination (IEE) processes; and the resource constraints and faced by MOECAF.

[Aye Thiha of E-Guard presented](#) on a perspective from a Myanmar EIA consultancy who had been involved in over 80 EIAs/IEEs and over 150 consultation meetings.

Participants were invited to share how they had undertaken public participation, and challenges faced, on a Chatham House Rule basis.

Understanding of the EIA Process

- There is generally a lack of understanding of public and/or community/affected people about what an EIA is and is not, and the different stages including scoping. This extended to the media who lacked understanding

- Suggestion that MOECAF/ECD should help to make this clear and raise awareness, including on the role of public participation; regional ECD representatives noted that they were carrying out a programme of EIA public awareness for industrial zones, public sector, civil society and community including schools but had limited capacity to do so. Prioritising stakeholders in areas which would be exposed to the EIA process was suggested
- Civil society participants (FREDA, POINT) also outlined the events they have already undertaken and further plans they have to raise civil society awareness about why consultations are happening and what is the public's role
- Some communities have refused to participate in EIA consultations because they appear to believe that if an EIA consultation was carried out this would mean the project will go ahead, so they sought to disrupt or boycott the consultation
- Participants are unwilling to sign registration sheets because they fear this signifies agreement to the project
 - Consultants need to clearly explain what registration is and isn't
- The role of the Project proponent (and government JV partner where relevant), the EIA consultant, and ECD needed to be made clear to all stakeholders

Public meetings

- Project affected people rarely asked questions during meetings (Thilawa SEZ being an exception). Reasons for this could be:
 - They were shy and not used to public speaking
 - They were drowned out by 'big voices'
 - They felt intimidated by the presence of participants; local relationship dynamics e.g. disagreement between village headman and fishermen

Hard copies were important, including as 'leave behinds' but participants were overwhelmed by text heavy slides/documents

- Language could be an issue
 - technical terms e.g. use of English words when speaking Myanmar, or complex terms
 - community members who did not speak Burmese
- Addressing these problems could include
 - Not relying only on public meetings for effective consultation
 - 1:1 or focus group (e.g. farmers, fishermen, family) discussions for project affected participants
 - Ongoing communication, including through trusted interlocutors
 - Adjusting language for laypeople; imagery; using cartoons; interpretation
 - Better understanding of local stakeholder dynamics, governance, and relationships
 - Phone contacts/letter for follow-up questions
- Communities mostly asked in public meetings about land-related issues e.g. resettlement, and livelihoods. Follow-up phone calls or letters were often about jobs. Questions rarely came up about environmental impacts although this was linked to livelihoods.
- Some companies found public meetings tended to focus more on community concerns about legacies before their presence and/or from neighboring operators.
- Some EIA reports received by MOECAF fail to include the results of the consultation which is a requirement under the Procedures
- One consultancy explained how they arranged two public meetings, one before the start of the survey to invite comments and concerns. This was a good opportunity to deal with misunderstandings about the process and the project. They also place newspaper and other public announcements at state and village level, and maintain a register of those who have

received information. The second meeting covered the draft report, impacts and proposed mitigation measures. It was important for public participation to include discussion of draft mitigation measures for inclusion in the Environmental Management Plan but there were rarely questions about this. Subsequently a Burmese version of the Executive Summary and the impact assessment and EMP were made public for a month including in company offices, on the website, and in the ECD regional office and in appropriate public places such as village tract offices.

- One company explained how after submitting their report to MOECAAF and disclosing it, they were using the intervening time pending receiving any MOECAAF feedback to arrange follow-up meetings with stakeholders to discuss mitigation measures and answer questions; this was useful for trust-building
- One company had used written materials in three languages (English-Burmese-Shan) but supplemented this with interpretation in other languages e.g. Lahu

Meeting participants

- All relevant stakeholders need to be identified, invited and/or engaged with separately
- Representatives of ECD regional offices should be invited to meetings to build their understanding of what the project and how consultation was being approached
- Project proponents should not just be observers but need to participate actively in meetings to answer questions which the EIA consultants cannot speak to; provide explanations of the project, and about the industry more widely (e.g. oil and gas). Their active presence was important to build their relationship with affected communities and stakeholder.
- Some consultants take a proactive approach to inviting the media, publicizing the consultation on the private Google-group run by Myanmar journalists, and arranging transportation; as well as using media (written and radio) to invite participants; in some cases the media shows up any way.
- Media could be a good source of information about stakeholder views
- Operators would welcome the presence and greater engagement of the Government joint venture partner e.g. MOGE in meetings with communities. One company had presented to MOGE on how they were approaching the public participation and disclosure process

Engagement and follow-up

- One local consultancy mentioned that they had developed standard operating procedures on stakeholder engagement and consultation; these segmented the stakeholders by eg government, public, private sector, and targeted engagement accordingly; they also provided guidance on venues and times for engagement (e.g. monasteries; times which did not disrupt daily work)
- One consultancy prepares a written project summary in Burmese for engagement and leaves it with locals
- One consultancy explained that they had encouraged villagers to elect a village level committee to engage with the township authorities on the resettlement action plan (RAP). These two sides had negotiated with the help of a 3rd party and the project proponent. Agreement had been reached on compensation, resettlement and a grievance process
- One size cannot fit all - public participation, consultation for a deep water offshore seismic campaign required a very different approach to what was required for an onshore mine
- Cases have arisen where clients or regional stakeholders had prevented the EIA consultants from undertaking all the proposed engagement and consultation. This was short-sighted. One project for which a proposed engagement had not been allowed by local authorities was now having to deal with complaints from the communities who had been left out

- Another company mentioned similar issues around regional governments not encouraging engagement or the advertisement of grievance mechanisms
- Participants stressed the need for project proponents to keep stakeholders informed, maintain an ongoing dialogue, and keep promises made in meetings, to avoid loss of trust
- Contact details should be given for post-meeting complaints and questions in local language, since these questions might emerge after stakeholders had had a chance to reflect on what they had heard
- The project itself needed to set up a project grievance mechanism for ongoing complaints
- Stakeholders needed to be engaged with throughout the project cycle i.e. including implementation and closure
- Engagement is needed with stakeholders upstream and downstream of the project/around the area as they will be affected by it even if they are not directly impacted/resettled etc

EIA costs

- It was noted that most Myanmar project proponents were not ready or willing to pay for the cost of an EIA that met the new standard, including for effective public participation. Their expectations of the budget for an EIA were a tenth or less than what international companies budgeted for. Consequently the quality of assessments for Myanmar companies by local consultants was very different to those where a Myanmar EIA consultancy and international EIA consultancy worked together for an international company.
- Myanmar project proponents in particular lacked understanding of an EIA and how long a public consultation should take. They often sought to shorten and narrow the scope of consultations to reduce cost e.g. telling a consultant to spend only half a day in a community which was not long enough to hear the voices of vulnerable and excluded groups
 - The only way to address this would be through clear scoping and public participation requirements from government

Role of ECD/MOECAF

- The role of ECD during the scoping and assessment phase needs clarification including its potential role in hearing concerns prior to the EIA being submitted., when their formal role is engaged
- Companies want feedback on EIAs once submitted, and clarity about the approval process

Disclosure of the EIA

- It was noted that the EIA Procedures provided for two routes for internet disclosure of EIAs i.e. government website and company website
- The Letpadaung EIA has (previously) been disclosed on the MOECAF website but that seems to be the exception
- Some companies have disclosed their IEEs/EIAs on their website
- The ADB/GMS Environmental portal (set up as a portal for all Myanmar environmental information, policies etc) might be a place for EIAs to be disclosed.
- There was a need for public consultation during review/assessment of EIA by MOECAF (esp. relevant for controversial projects) but this was not happening

Lessons Learned

- One company mentioned that a local initiative was planned for EIA consultancies to share resources and equipment as well as experience and lessons learned; this could be a forum for engagement with government and CSOs on the EIA process.

- An international company highlighted the need to discuss its compliance processes to local consultants; there was an issue around people being expected to be paid to turn up to consultations
- Local consultants needed social as well as environmental and technical expertise

At the end of the meeting, participants were asked '*What is the one thing about public participation that you would like considered in public participation guidelines for EIA?*' Responses are in Annex 2

MCRB/PACT, 1 March 2016

ANNEX 1

Overview of the RTWG on EIA

The Regional Technical Working Group (RTWG) on Environmental Impact Assessment (EIA) is an active group of key government and civil society representatives from across the Mekong region. The group aims to strengthen regional cooperation on EIA to contribute to sustainable development in **Cambodia, Laos, Myanmar, Thailand, Vietnam** and across the **Mekong** and **ASEAN** regions. One of the RTWG's key outcomes will be the development of regional guidelines for public participation in EIA.

Background: Regional Cooperation and EIA

The emerging ASEAN Economic Community is building a single regional market and competitive production base, promoting equitable economic development, and further integrating its ten member states into the global economy. ASEAN aims to simplify and harmonize trade and customs processes to facilitate trade and investment across the region's borders. Investments in **regional infrastructure projects** such as hydropower dams, transportation corridors, extractive industries, and economic zones are increasing. But without effective social and environmental safeguards, these investments are likely to contribute to accelerated deterioration of the region's environment, loss of livelihoods, and other unintended consequences.

EIA is a widely-applied tool used to address **social and environmental impacts of development projects**. While it is implemented in all lower the Mekong countries – Cambodia, Laos, Myanmar, Thailand, and Vietnam – a number of weaknesses impede its effectiveness, particularly in relation to meaningful public participation. These gaps may result in poor projects with adverse impacts, project delays, and conflicts with communities – all leading to costs and risks for investors and governments. They also risk undermining the region's long-term sustainability. A wave of EIA reforms is underway across the region – a trend of common interest among governments, civil society, and business. Improving EIA policy and practice can help address the increasingly regional dimensions of large-scale regional investments, mitigate their social and environmental impacts and reduce risk and uncertainty to investors.

Response of the Regional Technical Working Group on EIA

The RTWG on EIA provides a platform for regional collaboration to strengthen the policy and practice of EIA and to enhance cooperation for inclusive and sustainable development of the region. Comprised of a diverse group of 25 non-government/civil society and government representatives (i.e. from government EIA departments and economic/planning ministries) from across the five lower Mekong countries, the RTWG has the following specific *objectives*:

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

Next Steps:

- The development of the **Regional Guidelines for Public Participation in EIA** is currently underway, with activities guided by an action plan until June 2017.
- **National advisors** will provide additional technical expertise to RTWG members.
- The next formal RTWG meeting in late April 2016 will result in a **first version of the draft guidelines**.
- **Public consultations on the draft guidelines** will be conducted in 2016 to introduce the draft guidelines and solicit inputs and feedback from interested stakeholders including private sector companies, NGOs, government agencies, academic institutes, and development partners.

The RTWG on EIA is supported by:

The Mekong Partnership for the Environment, led by Pact and funded by USAID, supports responsible development by facilitating networking and dialogue among government, business, and civil society.

The Asian Environmental Compliance and Enforcement Network (AECEN) is a network of environmental agencies from across Asia who exchange practices to promote improved environmental compliance.

ANNEX 2

Response from participants to the question *“What is the one thing about public participation that you would like considered in public participation guidelines for EIA?”*

- Effective identification and invitation of main stake holders
- Very informative; effective, delivering system not only at the project initiations phase but also at the project operating phase
- It was very valuable event for all attendees including EIA consultants, business men. It is better to be involved by project owner as well to listen their opinions and suggestions for ESIA activities.
- Make sure that the format and content of public consultations for EIA is proportionate to the potential impact of the projects, not a ‘tick box’ exercise. Small projects with little impact must not be regard to jump through similar hopes as one with resettlement and livelihoods impacts.
- Please don’t overestimate the capacity or desire to support initiatives at the local regulatory level. It is far better to walk before you try to run.
- Regarding the involvement of public in public consultations meetings, it is better to let the parties (consultants and project proponents) about the limitations/requirements from the Ministry side. For example, the number of attendants to PCM should be 30% of PAPs or other restrictions.
- Scale of projects, especially area-wise. Smaller projects within a certain held (e.g. Mining) might have different guidelines than larger projects.
- No single bullet would work. Foreign consultant firm should join ...local consultancy firm.
- If can, work on some indicators whether this “public consultations” is a success or failure – which from those – the process of this public consultation can be improve accordingly.
- Please keep the guidelines as simple as possible to enable MOECAF to understand and apply the guidelines. I’m worried that MOECAF is starting to drown in procedures, without the ability to implement. Thank you.
- Get proponents to fund the inclusion of ECD + CSO in public participation.
- Some guidance needs to be made for mega-projects/ controversial projects that need extra clarification of steps for public participations.
- To develop meaningful + effective guidelines for public participation, every stakeholders do need to develop their communication skills and listening skills too.
- To create more space for dialogue between government, private sector & CSOs.
- To make clear guidance for public participation in EIA between responsibilities of third parties and local people - affected persons.
- To development meaningfully national and regional guideline.
- Please focus on lesson learned by your past experience and others’ can be a positive lesson to be shared for best practice. Can be a negative lesson so as to prevent making same mistake by yourself or others.
- Inclusion: at township & village level, GAD/CM important in arranging venues & meetings. This can lead to some stakeholders not participating/ asking questions. Actions/mitigations: invite people in meetings to smaller focus group discussions where they can ask questions or one-on-one discussions.
- Please try to provide simple and clear information to local people/ indigenous peoples.
- Local communities are poor in knowledge and education, so they don’t know about the potential impact of the proposed project but what they want is to get mutual respect from the proponent and fair recognition, instead of providing infrastructure they want livelihood training for them.
- Public awareness, information sharing, transparency.
- (1) Information awareness of PAP, (2) political will, (3) increased capability of public consultants, (4) continuously engage private sector- regulatory consultants.

- Given the objective of “developing guideline for public consultation in EIA”, to mention “who should participate in the public consultations”. (1) right group of stakeholders (2) 3rd party (EIA consultants) (3) project proponents (4) government counterparts
- Public consultation and public participation is really important. Should involve all of the affected persons. In situation where it is not possible to visit a particular community (could be difficult/remote location or for security reasons) if may be possible to meet community members in another location. Invite them to the place and should provide their transportation changes if they come from a long distance.
- With respect to the public involvement in public consultation and participation meeting, they need to have enough information about the project, to express their opinion very openly. For the government sector, ECD need to make awareness raising on EIA, negotiation between the public and project proponent and monitoring on EIA/IEE.
- Public consultation meetings to carry out KII (key informants interviews) and FCD (focus group discussions) before the PCM to consider in the EMP. To be transparent in presentations include all findings (Environment and social) in PCM.
- For getting public participation - to construct TRUST between local community and project owner/ EIA-SIA consultants (third parties); to listen community voice; to understand affected people who directly/indirectly real situation.
- EIA, participations have got many knowledge.
- Really nice to attend this meeting. We really want to discuss about transparency but it is some limited conditions with 3rd parties. Whatever it is a good meeting.
- Public meetings are not necessarily the best forum to obtain public feedback and obtain the necessary insights and are often just a tick box exercise.
- Guidelines on public participation should include clear roles and responsibilities for various stakeholders. In addition, specific guidelines on monitoring and evaluation required to ensure there is follow up and complaints/ concerns closed.
- Regional EIA procedures and guidelines should be also based on regional/ country-wise. Cultural/hydrological/topographical conditions of the countries.
- Community engagement (more locally, more frequency to listen their voice) as much as possible are important points. Then establishment of trusting each other (to understand each other) also key issues to success the projects.