

Embracing Strategic Environmental Assessment in
the Environment and Natural Resources Code

WORKSHOP REPORT



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About the workshop

The workshop on **Embracing Strategic Environmental Assessment (SEA) in the Environment and Natural Resources Code (ENR Code)** was conducted on **November 22, 2023**, at **Poulo Wai Hotel & Apartment, Phnom Penh**, with a total of **51 participants (21 females)**, aimed to enhance stakeholder comprehension, foster dialogue, and facilitate cooperation, to ensure the effective implementation of SEA within the framework of the Natural Resources and Environmental Code.

Among the attendees were representatives from the Environmental Impact Assessment (EIA) Department of the Ministry of Environment (MoE); the National Council for Sustainable Development (NCSD) of the MoE; the Ministry of Planning (MoP); the Ministry of Tourism (MoT); EIA consultant firms; Civil Society Organizations (CSOs); Community-based Organization (CBOs); media organizations; and indigenous peoples from Mondulakiri, Preach Vihear, Ratanakiri, Stung Treng, and Kratie provinces.

The workshop was organized by **Open Development Cambodia (ODC)** with funding support from **Heinrich Böll Stiftung Cambodia (HBS)**, the **United States Agency for International Development (USAID)** through **Family Health International (FHI360)**, and other partners.



Total Participants: 51
Female Participants: 21

Purpose of the workshop

Amid today's rapidly developing, the imperative for responsible and sustainable management of our natural resources and environment has surged to the forefront of our collective awareness. The complicated relationship between economic advancement and environmental preservation requires a new level of diligence and innovation. We acknowledge the essential role of the Strategic Environmental Assessment (SEA) in navigating us toward enlightened decision-making and fostering the foundations of sustainable development. SEA serves as a proactive tool to ensure sustainable development by identifying potential environmental impacts early.

Figure 1: Connection between SEA and EIA

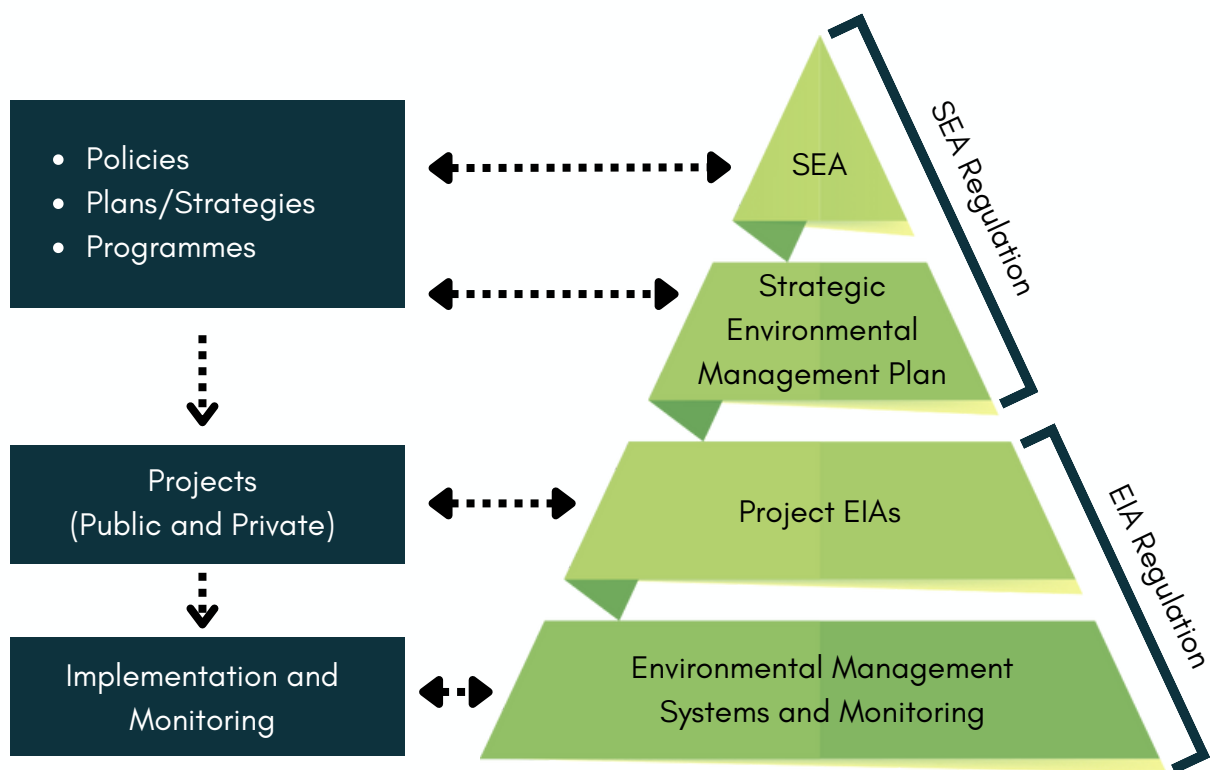
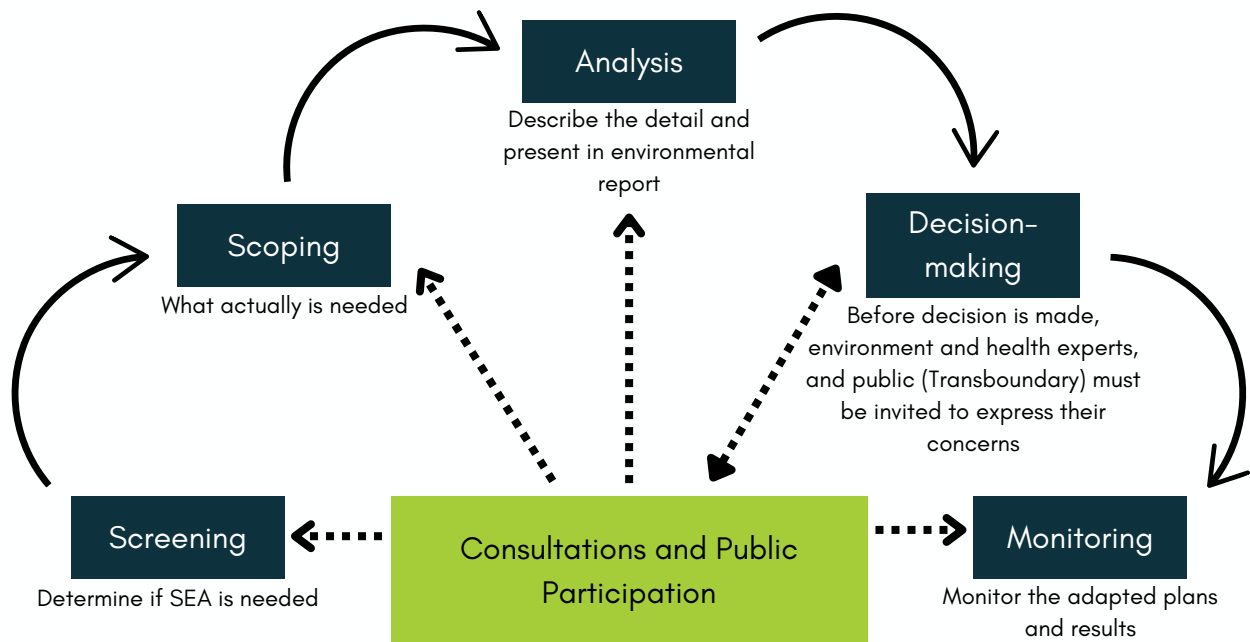


Figure 2: SEA Process



Recently, the Royal Government of Cambodia (RGC) adopted the ENR Code which also includes the implementation of SEA in Cambodia. The SEA chapter included in the current ENR Code can be considered a partial contribution from the SEA training program since 2020. The training project was hosted by ODC in collaboration with the National Council for Sustainable Development (NCS D) and the Non-Timber Forest Products Exchange Programme (NTFP-EP Cambodia) with the technical support of the Netherlands Commission for Environmental Assessment (NCEA) under the “Shared Resources, Joint Solutions (SRJS) program. SEA training alumni have continuously contributed to capacity building including promotion of SEA activities.

The dialogue on the SEA within the ENR Code in Cambodia is a comprehensive initiative aimed at fostering a deeper understanding of the legal framework and regulations governing natural resources and the environment in the country.

Therefore, the workshop on “Embracing SEA in the ENR Code” aims to:

- 1.Promote a heightened understanding of the significance of the Natural Resources and Environmental Code, along with the role of Strategic Environmental Assessment, in the protection and preservation of the environment
- 2.Facilitate open discussions among stakeholders to address challenges, opportunities, and practical implementation strategies
- 3.Foster collaboration between government and civil society for sustainable environmental management.

Panel Discussion

Core Principles of the ENR Code: Strategic Environmental Assessment (SEA)

The panel discussion commenced by introducing speakers overseeing the Strategic Environmental Assessment (SEA). The Green Economy Department (GED) within the Ministry of Environment (MoE) is specifically dedicated to providing technical support for the development of the SEA. Notably, the ministry has made substantial progress, conducting comprehensive training sessions in collaboration with organizations such as ODC, MoP, and others across provinces. These sessions aimed to enhance awareness of SEA theory and impart essential knowledge and skills to trainers, ensuring their capacity to disseminate expertise in the long term. The GED undertakes the role of a national working group, focusing on equipping technical guidance and support to trainers, and maintains a collaborative partnership with the Asia Foundation.

The Ministry of Planning (MoP) leads Cambodia's development plan, and it encourages all ministries to consider environmental management within each ministry's strategy and plan. SEA is a policy option for the government to make decisions in which the development will affect the environment and livelihood. The Asian Development Bank (ADB) conducted the assessment called Strengthening Sustainable Tourism: Strategic Environmental Assessment of the Tourism Sector in Cambodia. World Wildlife Fund (WWF) also shared options for land use planning in Mondulkiri province in a publication called Technical Report on Mondulkiri Provincial Spatial Plan (2020-2040). Normally, the government is the one who will conduct a SEA in which the budget of around 5-10% of the plan is estimated for the SEA based on the research. However, the MoP has not negotiated with the Ministry of Economy yet. How the environmental, social, and corporate governance (ESG) is connected within the SEA shall be considered since it is related to the funding of the company in favor of SEA. In cases where the national budget is tiny and has other priorities, the government might consider asking the development partner to sponsor and cooperate. Still, the final decision is up to the higher-level government. Therefore, the difference between the EIA and SEA is that the development project is responsible for the EIA, and the government will cover the SEA.





Presently, the EIA Department is actively engaged in developing comprehensive SEA guidelines, specifically targeting construction sand business projects along the Mekong and Bassac Rivers. The development of these guidelines involves a thorough drafting process undertaken by the department, incorporating insights from three official meetings. Within the context of SEA for sand mining initiatives, the draft encompasses a thorough evaluation of critical factors such as water flow, soil erosion, dolphin habitats, cultural heritage, etc. Additionally, the assessment extends to cumulative impacts and risk considerations. It is significant to have consultation workshops among stakeholders regarding the draft SEA. However, the ministry will clean the first draft and make it ready for the workshop. The principle of SEA focuses on the public participant, and it is clearly illustrated by the ENR code. Based on the legal perspective, the sub-decree following the ENR Code shall be adopted first. It, therefore, will state who will be responsible for each role and implementation, how much budget will be allocated for the SEA, and when will it be implemented. The code has been adopted and will be effective next year. Therefore, we still have some time to prepare for the SEA implementation. Linking to that, ClienEarth is supporting the NCDD regarding the decentralization sub-decrees drafting.



The term "Indigenous Peoples" was intentionally removed from the code based on the perspective of the previous minister. This decision was made to avoid any perceived inequalities among the Khmer population, but indigenous peoples would prefer to keep the word. The code does not mention the word "Indigenous Peoples", but it mentions the word "Community" which refers to both Indigenous peoples and Khmer people. Even though the word is not mentioned, it refers to traditional land use rights.

Transparency in the EIA reports

The discourse was initiated in response to participant inquiries relating to the transparency of public participants in the EIA process. Questions were raised concerning the openness of the authority in inviting diverse perspectives, ensuring inclusivity beyond established networks and those supportive of meetings. Furthermore, emphasis was placed on the imperative to make EIA reports, particularly those associated with economic land concessions (ELC), publicly accessible. An additional query centered on the engagement of Indigenous peoples in this initiative, seeking clarification on the mechanisms and opportunities available for their involvement.

"We have never been on loan from the bank before. However, since we lost our land to the development project, In the 2000s, we could cultivate non-forest products, and our lives were not too bad. However, our lives now are very difficult," Indigenous Women from Mondulkiri province.



The EIA Department is only responsible for checking and reviewing EIA reports submitted by EIA consultancy firms, and they go for site visits and meetings with some stakeholders listed within the report – based on the Representative of the EIA Department. So far, ODC tried to connect with the EIA Department regarding the report disclosure. The reports, however, are considered confidential since they are related to investment companies' privacy and financial confidence. The ministry does not publish reports for the general public. If there is any needed sharing, details are provided in abstract form only. The private sector prefers EIA reports to be confidential. However, many chapters can be disclosed – according to EIA consultant firms. For the data collection in the EIA process, local authorities are key people for public consultations and coordination with the general public.

Key sectors for implementing SEA

Participants advocated for a sequential approach to Strategic Environmental Assessment (SEA), proposing an initial focus on the land use and natural resources sector, followed by assessments in the agriculture and energy sectors. Acknowledging time constraints during the session, it was underscored that detailed discussions regarding the specific details of each sector should be deferred for subsequent sessions.

Next steps

Continuing deliberations will explore the complicated relationship between Environmental, Social, and Corporate Governance (ESG) practices and Strategic Environmental Assessment (SEA). The term "Indigenous Peoples" usage shall have a thorough examination, needing a comprehensive discussion between governmental bodies and communities to address different perspectives. Despite a demonstrated readiness among the community and stakeholders to engage in SEA discussions, there remains a lack of clarity on the specific modalities for effective participation in public discourse. Furthermore, considerations have been raised regarding the public availability of EIA reports, with a nature toward selective disclosure, particularly in specific chapters. The E & A Consultant Co., Ltd. expressed their willingness to disseminate EIA reports pertaining to development projects among participants. In the event of specific requests from Civil Society Organizations (CSOs), the firm is prepared to share non-confidential chapters, but not include the cost and balance analysis for the respective project.





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