

Regional Guidelines for Public Participation in Environmental Impact Assessment -Cambodia, Lao PDR, Myanmar, Thailand, Vietnam-

<Draft Version for Public Consultation>
August 16, 2016 – October 31, 2016

These *draft* **Regional Guidelines on Public Participation in Environmental Impact Assessment (EIA)** have been collaboratively developed by the Regional Technical Working Group (RTWG) on EIA comprised of 25 government and non-government members from Cambodia, Lao PDR, Myanmar, Thailand, and Vietnam, and are now being made publicly available for feedback and comment from interested stakeholders.

These regional EIA guidelines have been developed in response to the shared concern for increasing meaningful public participation in development planning, in the context of increasing investment projects across the Mekong region. Their purpose is to provide practical guidance for implementing meaningful public participation in the EIA process in the Mekong region, in order to enhance the efficiency and effectiveness of the EIA process, while reducing risks for projects as well as all stakeholders involved. The use of the guideline is envisioned to result in improved, sustainable, and more equitable development outcomes. The guidelines provide a regional “good practice” approach to public participation in EIA and are intended to complement national laws and policies where they already exist with additional “how to” detail. The intended users of these guidelines includes project proponents and EIA consultants, as well as government agencies, project affected people, non-governmental and civil society organizations (NGOs/CSOs), and others.

Formed in August 2015, the RTWG on EIA provides a model multi-stakeholder platform for regional collaboration to strengthen the policy and practice of EIA and to enhance cooperation for inclusive and sustainable development of the region. The RTWG on EIA is comprised of a diverse group of non-government/civil society and government representatives from 10 Ministries across the five lower Mekong countries. The group is supported by national technical advisors and other international technical experts.

For more information on the RTWG on EIA and public consultations across the Mekong region, please visit: <https://mekongcitizen.org/about/mpe/rtwg-on-eia/>

Access to the document

The draft regional EIA guidelines document is currently available in English for online comment (and download) via the website: <http://mekongcitizen.org/EIA>

When providing comments on the online document, please provide your biographical details, and then insert comments beside the relevant paragraph. If your comments are general in nature, please leave them at the bottom of the chapter or at the end of the document. Your biographical details will be saved online, but only if you access the document from the same computer. These details will be used for feedback analysis but will not be disclosed publicly.

Additional versions in Khmer, Lao, Burmese, Thai, and Vietnamese are being prepared and will be made available and posted to the same website address noted above.

Consultation Period

August 16, 2016 to October 31, 2016 (Bangkok time)

In addition to the opportunity to provide comments online, public consultations on the draft guidelines will be conducted to introduce the draft guidelines and solicit inputs and feedback from interested stakeholders including private sector companies, EIA consultants, government agencies, non-governmental/civil society organizations, academic institutes, and development partners. Public consultation meetings are being planned during October 2016 for: Bangkok, Hanoi, Ho Chi Minh City, Phnom Penh, Vientiane, and Yangon. Details on the dates and locations of these meetings will be confirmed and made available in the near future.

Please kindly be advised that comments will only be accepted through the online platform and through the public consultation meetings. We are unable to accept comments through other methods (such as by telephone, email, fax, or post).

Management and Handling of Comments

At the close of the consultation period (Oct 31), comments on the draft guidelines will be compiled and synthesized by the RTWG Secretariat and will be considered by the RTWG on EIA members at their subsequent meeting in early January 2017. No personal information in relation to comments given will be disclosed publicly. If the comments include private information, by which a particular individual can be identified, or any information deemed to be potentially damaging to an individual person or an organization, pertinent sections will be removed. Due to the extensive nature of the consultations, we will unfortunately be unable to respond to individual comments.

Inquiries

Please direct any queries you have at this time to: infompe@pactworld.org

On behalf of the RTWG on EIA, we look forward to your participation and involvement in the conversation!

Sincerely,



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REGIONAL TECHNICAL WORKING GROUP ON EIA

Regional Guidelines on Public Participation in Environmental Impact Assessment (EIA)

Draft for Consultation and Comment

**Version
16 August 2016**

Preface

The Regional Guidelines on Public Participation in Environmental Impact Assessment (EIA) (“the Guidelines”) have been collaboratively developed by the 25 government and non-government members of the Regional Technical Working Group (RTWG) on EIA¹, with support from technical advisors. Additional inputs and feedback received through national consultation meetings held from September to October 2016 involving relevant government agencies, private sector companies, EIA consultants, civil society organizations, development partners, and others, will be used to improve this draft of the Guidelines.

This Guideline is made possible by the generous support of the American people through the United States Agency for International Development (USAID) Mekong Partnership for the Environment program, implemented by Pact in collaboration with the Asian Environmental Compliance and Enforcement Network (AECEN). Pact and AECEN, along with other partners, have provided facilitation and support to the RTWG on EIA to develop these guidelines. The contents presented in this document do not necessarily reflect the view of USAID or the United States Government.

¹ See Annex 1 for a list of RTWG on EIA members



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1. INTRODUCTION AND RATIONALE

1.1 **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 prior to decisions and commitments being made.²

1.2 While EIA procedures are in place in all Mekong region countries – Cambodia, Laos, Myanmar, Thailand, and Vietnam – 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 poor 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.

1.3 For these reasons, EIA has recently emerged as an issue of common concern among governments, civil society organizations, 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 is expected 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.

1.4 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 social impacts. The current interest in EIA, along with increasing investments in large-scale regional development projects, reflects the importance of advancing EIA policy and practice that address the increasingly regional dimensions of investments and their impacts.

1.5 Effective involvement of relevant stakeholders in the EIA process has been identified as a critical gap, and thus as a key mechanism 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

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

relationships that are essential for the successful management of a project's environmental and social impacts.

1.6 **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 meaningful way, and communicating to the public how their input affects the decision.

1.7 The Regional Guidelines on Public Participation in EIA ('the Guidelines') present a common approach, rooted in the context of the Mekong region, that can strengthen the implementation of public participation and access to information within existing national EIA frameworks. As such, they are intended to contribute as a reference and resource for strengthening the policy and practice of EIA in the Mekong region, in the context of increasing regional investments and impacts, to help realize the sustainable development of the region.

2. PURPOSE AND SCOPE OF THE GUIDELINES

2.1 The **purpose** of the Regional Guidelines on Public Participation in EIA (‘the Guidelines’) is to provide practical guidance for implementing meaningful public participation in the EIA process in the Mekong region.

2.2 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 also taking into account the existing national laws and guidelines. The **audience** for these Guidelines includes project affected people (PAP), project proponents, EIA consultants, government agencies, non-governmental and civil society organizations (NGOs/CSOs), and other stakeholders with an interest in the EIA process and implementation of investment projects.

2.3 The **scope** of the Guidelines covers all development projects within the Mekong countries of Cambodia, Laos, Myanmar, Thailand, and Vietnam that are required by existing national EIA laws to be subjected to EIA processes.

2.4 For the purposes of these Guidelines, the term Environmental Impact Assessment (EIA) has been used. 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 impacts (direct, indirect, and cumulative, as well as social) on both people and the environment. EIA provides a clear reminder of the need for the assessment process to be as complete as possible when considering and assessing all the impacts from a project.

2.5 An overall objective of public participation in EIA is to ensure that all environmental and social impacts from a proposed project are reflected in the EIA Report and assessed by the EIA consultant, and are reviewed and considered by the decision maker, and that any 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 including compensation that may arise during the construction or operation 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.

2.6 These 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. Through this, use of the guidelines will

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

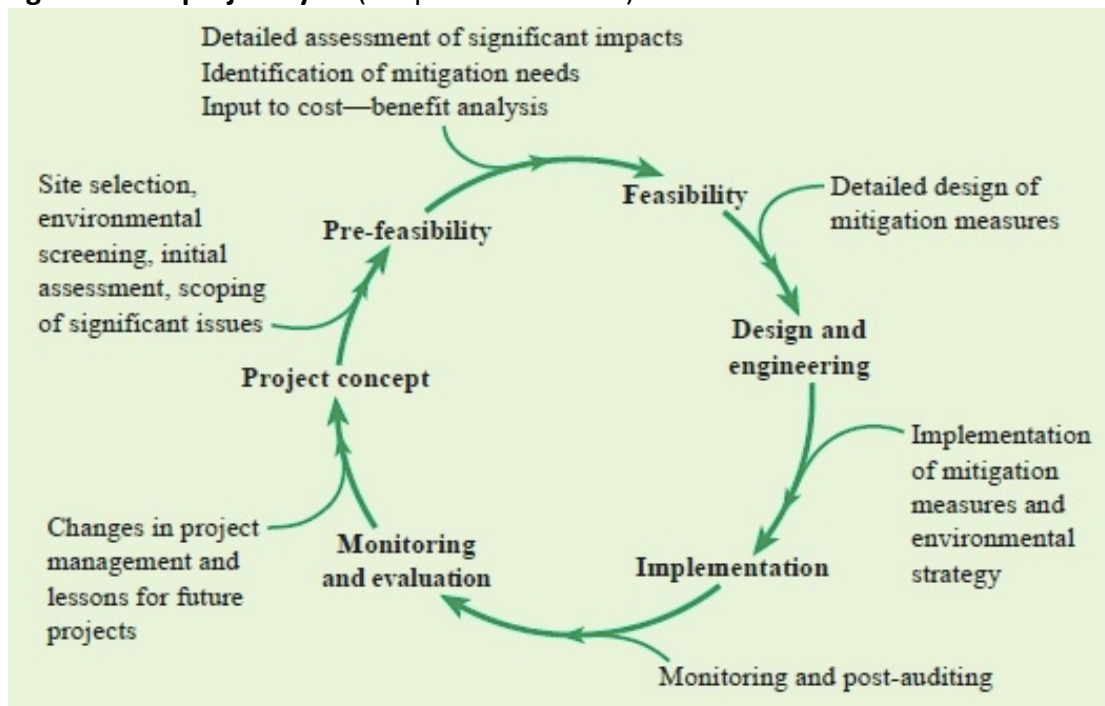
contribute to meeting the ASEAN Charter objectives “to ensure the protection of the region’s environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples.”⁴

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

2.8 Following an overview of the EIA process in general and highlighting some key principles of public participation, 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. By organizing the Guidelines in this way, they are also intended to serve as a practical manual for EIA practitioners throughout the EIA process.

2.9 As the Guidelines are focused on the EIA process in particular, 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 these Guidelines could be applied to other decision-making processes outside of the formal EIA process as well. Figure 1 illustrates the relationship between the project cycle and environmental assessment, and how the steps in the EIA process relate to the overall project lifecycle.

Figure 1: The project cycle (adapted from UNEP)



⁴ ASEAN Charter Article 1(9)

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

3.0.1 EIA, as a process used by all governments in the Mekong region, 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 Project Affected People (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.

3.0.2 The entire EIA process, inclusive of effective public participation as described in this Guideline, 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 the negative impacts of proposals are avoided or mitigated before they arise. This therefore necessitates that project construction or implementation activities should not be carried out prior to the completion of the EIA process.

3.1 OBJECTIVES OF EIA

3.1.1 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

3.1.2 When responding to identified potential 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 Figure 1, is most widely applied to the management of risks and impacts on biodiversity and ecosystem services, but is applicable to all risks and 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;

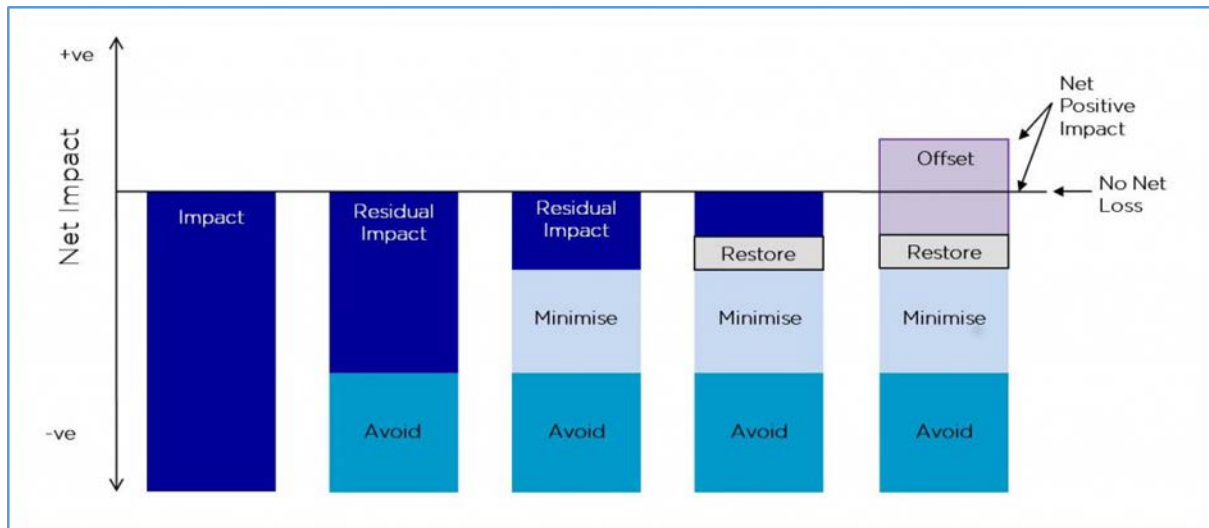
⁵ International Association for Impact Assessment (1999). *Principles of Environmental Impact Assessment Best Practice*, http://www.iaia.org/uploads/pdf/principlesEA_1.pdf

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

- 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 mitigated, the proposed project may not be permitted to proceed.

Figure 2: The mitigation hierarchy⁷



Achieving these objectives requires the application of a sound framework for EIAs based on a number of key principles.

3.2 KEY PRINCIPLES OF EIA

3.2.1 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

3.2.2 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 the PAP, the project proponent, the EIA consultant,

⁷ Adapted from The Biodiversity Consultancy, *Mitigation Hierarchy*, <http://www.thebiodiversityconsultancy.com/approaches/mitigation-hierarchy/>

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.

3.2.3 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.

3.2.4 The general public should not have to bear the costs of participating in EIA processes, or for government assessments of EIAs. All of these 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 adequate funding for these activities – 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.

3.2.5 Meaningful public participation at all steps of the process

A key goal of EIA is 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 must 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 or undertaken to complete a regulatory requirement. This public participation must be tailored to the particular needs and circumstances of the participants.

3.2.6 Access to information by PAP and other stakeholders

In order to effectively participate in the EIA process and make an informed decision on an EIA, 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.

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.

3.2.7 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 covers 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) be obtained.

3.2.8 Open and evidence-based decision making

An effective EIA process requires both the preparation of an EIA by the project proponent (and/or the EIA consultant) and the review of the EIA by government, to determine whether the project should proceed or not. 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.

3.2.9 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

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

3.3.1 Implementation of an effective EIA and public participation process involves a number of stakeholders, each with different roles and responsibilities. Table 1 below summarizes these key actors.

Table 1: Key actors in EIA processes

Stakeholders	Roles and Functions in the EIA process
EIA Authority	<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. ● Review draft EIA reports and make recommendations to the decision-maker. ● Conduct public participation processes as part of the EIA Report Review step. ● Issue the 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.
Project proponent	<ul style="list-style-type: none"> ● Initiate project proposal. ● Initiate and comply with entire EIA process, and its terms & 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; – 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.

EIA consultant	<ul style="list-style-type: none"> ● Lead EIA processes (often the Scoping and EIA Investigation and Reporting steps). ● Liaise with PAP and other stakeholders. ● Propose and negotiate with the project proponent alternatives and impact mitigation measures. ● Lead public participation processes up until EIA Report is submitted. ● Participate 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 and 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. ● Identify and communicate community needs, desires and expectations from project proposals. ● Make formal submissions and comments to the project proponent, EIA consultant and EIA Authorities.
Other stakeholders (including: local, national and regional NGOs; industry and trade associations; media; academics; regional institutions)	<ul style="list-style-type: none"> ● Contribute technical knowledge and expertise to EIA process. ● 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.

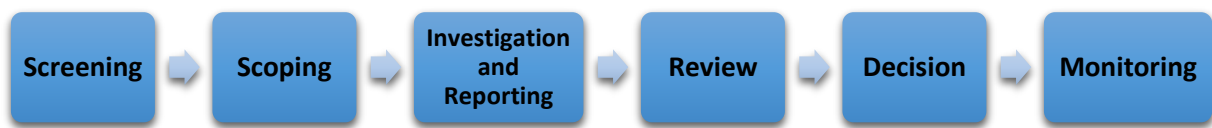
Neighboring country governments	<ul style="list-style-type: none"> ● Notify neighbors of project proposals with potential transboundary impacts and implement appropriate transboundary EIA arrangements. ● Participate in transboundary EIA processes regarding project proposals in neighboring countries with 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.
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3.4 KEY STEPS OF EIA AND PUBLIC PARTICIPATION

3.4.1 EIA systems and project development in the Mekong Region generally follow a standard process regarding EIA implementation. 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 environmental impact assessment, or any other form of environmental assessment, is required before the project can proceed to implementation.
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 3: Key steps in the EIA process and public participation



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

3.4.3 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 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.

3.5 TRANSBOUNDARY ISSUES IN EIA

3.5.1 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 harm to a neighboring country.⁹ 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.

3.5.2 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.”¹⁰ The International Court of Justice has recognized that this principle extends to the need for EIA processes to engage with affected neighboring countries.

⁹ 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

¹⁰ Pulp Mills Case (Provisional Measures) (Argentina v. Uruguay) International Court of Justice Reports 2006, p.204.

- 3.5.3 In the Mekong region, there are various agreements and mechanisms for considering transboundary environmental issues, but no formal agreement for a transboundary EIA framework exists yet. 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.¹¹ There has been 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.
- 3.5.4 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.¹² 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.¹³ 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.
- 3.5.5 At present, though, there is no regional legal framework for transboundary public participation in EIAs for proposed projects that have transboundary impacts. Some lessons, however, can be taken from international experience elsewhere in consideration of current best practice around EIA.
- 3.5.6 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

¹¹ Mekong River Commission, *Transboundary EIA*, <http://www.mrcmekong.org/about-mrc/programmes/environment-programme/transboundary-eia/>

¹² 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>

¹³ http://haze.asean.org/?wpfb_dl=32

Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention).¹⁴

3.5.7 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.

3.5.8 The ECE Guidance identifies a number of key best practices 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.
- 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 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.

3.5.9 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 adequate 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 environmental mitigation and monitoring plans (EMMPs) and thus avoid future conflicts during construction and operational phases of the project.

3.5.10 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.

¹⁴ UNECE (2006) *Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context*, ECE/MP.EIA/7

4. GENERAL PRINCIPLES OF MEANINGFUL PUBLIC PARTICIPATION

4.1 BACKGROUND TO PUBLIC PARTICIPATION AND ITS BENEFITS

4.1.1 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 Rio Declaration of 1992 and has been accepted as a core part of EIA since the beginnings of EIA in the 1970s.

4.1.2 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.*¹⁵

4.1.3 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 or 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.

4.2 KEY PRINCIPLES FOR MEANINGFUL PUBLIC PARTICIPATION

4.2.1 Central to achieving meaningful public participation are three key principles:

1. Properly planning public participation processes;
2. Identifying PAP and other stakeholders; and
3. Giving special attention to vulnerable groups.

4.2.2 Meaningful public participation is a process that begins early 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 adequate 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. Public participation should be conducted in a manner commensurate with the risks to, and impacts on, those affected by the project. There are several key elements of meaningful public participation:¹⁶

- Public participation in the EIA process must be planned: a plan must be developed for even the most simple and straightforward EIAs.

¹⁵ 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.

¹⁶ Adapted from IAIA (2015) "Effective Stakeholder Engagement," *IAIA Fastips*, No. 10 (revising 'IA' to 'EIA'). http://www.iaia.org/uploads/pdf/Fastips_10EffectiveStakeholderEngagement.pdf

- 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.

4.2.3 Properly planning public participation processes

The project proponent and the EIA consultant should develop, in consultation with the 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 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 III.

4.2.4 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'. 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"¹⁷:

- *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.*

4.2.5 The resources to be allocated within the Public Participation Plan include time as well as financial resources. All stakeholders will require some 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 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

¹⁷ IAIA (2015) "Effective Stakeholder Engagement," *IAIA Fastips*, No. 10.

allocate sufficient time throughout the EIA process, based on the particular needs of the identified stakeholders. This necessitates that both the project proponent and EIA consultant need to exercise patience.

4.2.6 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. 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.

4.2.7 The content and presentation of the message is as important as its actual content and requires attention, experience, and skill.¹⁸

4.2.8 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 proponent’s EIA consultant and those incurred by the EIA Authority in undertaking public participation during the review and decision-making on an EIA Report. As such, 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.

4.2.9 Identifying PAP and other stakeholders

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

- each project proposal will involve a different set of PAP and stakeholders;
- different PAP and stakeholders will be impacted in different ways (i.e. women may be impacted differently than men);
- different sets of PAP and 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.

4.2.10 This 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

¹⁸ IAIA (2015) “Effective Stakeholder Engagement,” *IAIA Fastips*, No. 10.

issues, and for data gathering.

4.2.11 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 spokespeople if they wish.

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

4.2.13 A common – but by no means complete or tailored – list of potential stakeholders is provided in the Table below.

Table 2: List of possible stakeholders¹⁹

<p>PAP</p>	<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 and elderly people, disabled people, resource dependent groups, and poor people. ● Communities in neighboring countries where transboundary impacts may be an issue.
<p>Government Authorities</p>	<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.
<p>Other Stakeholders</p>	<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.

4.2.14 Giving special attention to Vulnerable Groups

The identification of stakeholders also needs to involve 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 ethnic groups that use other languages or dialects, women, people with disabilities, those below the

¹⁹ Adapted from Lao PDR's EIA Guidelines, MONRE, 2012.

poverty line, the landless, and representatives of children and the elderly. Additional support may be necessitated to ensure the participation of these groups.

4.2.15 While ultimately the decision on the EIA for a project proposal is the responsibility of government, the application of the principle of Free, Prior and Informed Consent (FPIC) may have some bearing on that decision. 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.²⁰ 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.

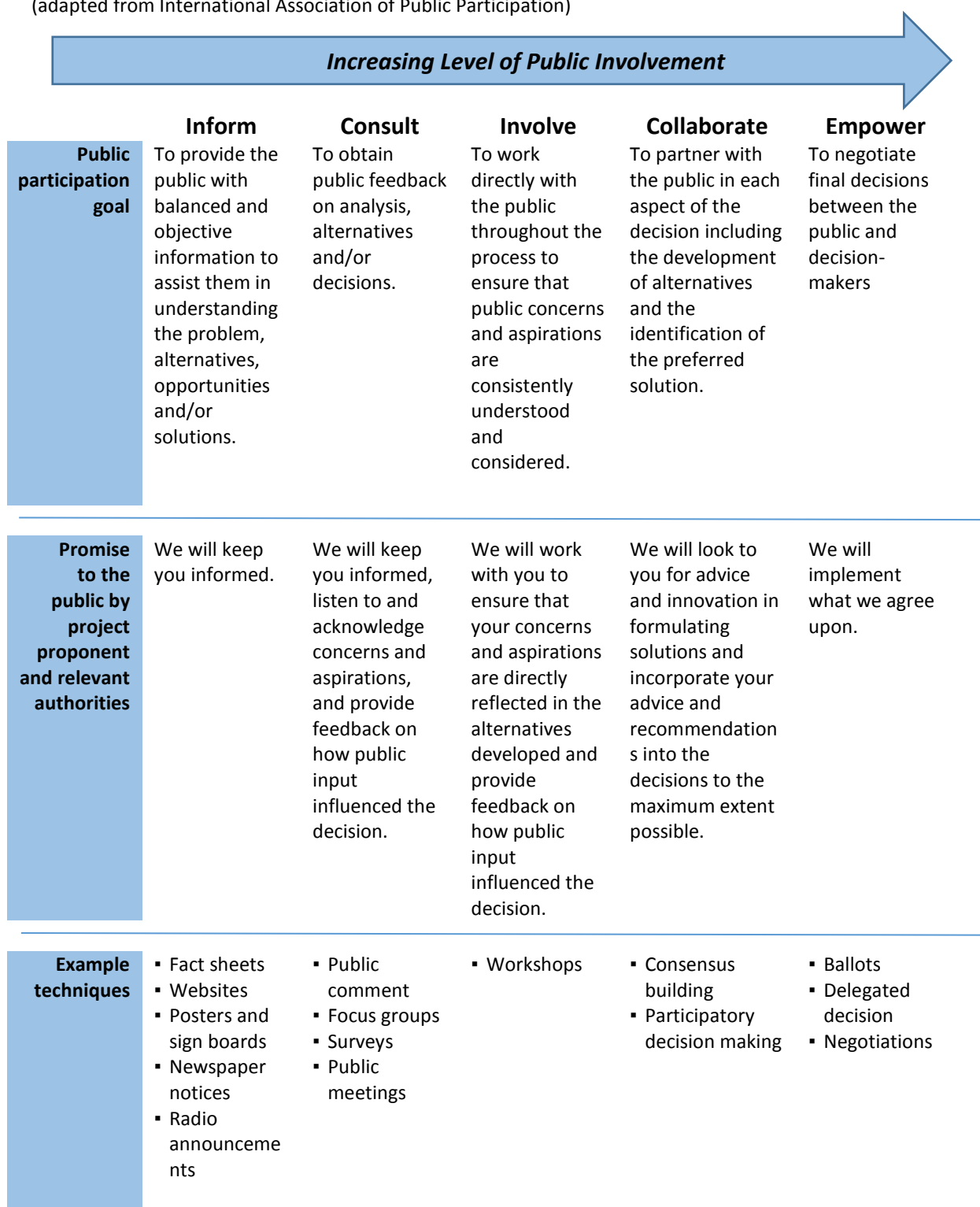
4.2.16 The application of FPIC is the one clear way that indigenous PAP are given voice in EIA. The FPIC principle recognizes that indigenous peoples have specific rights that should be respected. To be compliant with FPIC principles, if they do not agree with the proposed project, then it must be modified until consent is granted.

4.3 SPECTRUM OF PUBLIC PARTICIPATION

4.3.1 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 framework for public participation, adapted in Figure 4 below.

²⁰ 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

Figure 4: Spectrum of public participation
 (adapted from International Association of Public Participation)



4.3.2 The level of public participation employed should be commensurate with the overall goal and tailored to the specific project circumstances, and may vary throughout the different steps in the EIA process, depending on the specific aim for public involvement at that time.

4.3.3 The range of public participation that is generally preferred at each step of the EIA process is summarized in the following figure and further detailed in Chapters 6 to 11 of the Guidelines.

Figure 5: Range of public participation at each EIA step

EIA Step	Level of Participation				
	Inform	Consult	Involve	Collaborate	Empower
Screening	←→				
Scoping		←→			
Investigation and Reporting		←→			
Review		←→			
Decision	←→				In some situations, such as where FPIC is applied
Monitoring		←→			

4.4 PUBLIC PARTICIPATION BEYOND THE EIA PROCESS

4.4.1 These 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. Oftentimes, 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 - 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;
- engage stakeholders in the feasibility assessments for the project proposal; and
- avoid and/or minimize potential social or environmental problems upfront at the early process of project conceptualization, design, and site selection.

4.4.2 The project proponent should release as much information 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 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 in these Guidelines can be relevant to guide the development of such CSR strategies.

4.4.3 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.

5. PUBLIC PARTICIPATION IN KEY STEPS OF THE EIA PROCESS - SUMMARY

5.1 Six steps of the EIA process are identified where participation is most relevant for the needed 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 Reporting
- 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

5.2 For each step, it is important to identify the specific purposes of public participation, what level of public participation is required 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.

5.3 These Guidelines contain minimum recommended public participation engagements. These 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 a mega-project or highly controversial, then there may need to be more engagements to ensure the public participation is meaningful. The Scoping step 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 with PAP and other stakeholders. This is a direct consequence of the complexity of such projects.

6. STEP 1: PUBLIC PARTICIPATION IN SCREENING

6.0.1 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 require an EIA if the project is likely to have a significant impact on the environment, regardless of the screening list.

6.1 PURPOSE OF PUBLIC PARTICIPATION AT THE SCREENING STEP

6.1.1 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 livelihood. 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. 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.

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

- Establish relationships between the project proponent and both the PAP and relevant government agencies;
- Ensure the PAP are aware of the project proposal and EIA process;
- Begin building the capacity of PAP and local stakeholders to participate in the EIA process;
- Provide the local community 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.); and
- Ensure the Screening decision is made publicly available.

6.2 LEVEL OF PUBLIC PARTICIPATION EXPECTED

6.2.1 Accordingly, 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.

6.2.2 At the Screening step, PAP and 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 (e.g. **Consult Level**), 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.

6.2.3 The Screening meeting between the project proponent (and their EIA consultants) 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 (e.g. **Inform Level**). This information can then be distributed to all the 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.

6.2.4 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.

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 Relevant local authorities Project proponent and (if already engaged) EIA consultant Translator/s	Project proponent in cooperation with relevant local authorities and the local community leaders	To inform the PAP of the project and EIA process. For proponent to collect initial feedback about the screening of the proposed project for incorporation into project and EIA preparation. For EIA Authority to collect initial feedback about the proposed project for consideration in the Screening decision.

6.3 INFORMATION TO BE PROVIDED AND COLLECTED

6.3.1 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 (see Annex IV).

6.3.2 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 stakeholders
- Potential environmental impacts, including land acquisition and livelihood impacts (both positive and negative)
- Potential impacts on indigenous peoples or ethnic groups
- 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

6.4 KEY QUESTIONS FOR MEANINGFUL PUBLIC PARTICIPATION AT THE SCREENING STEP

At the end of the Screening step, the following questions should be able to be answered by the project proponent, EIA Authority, and interested stakeholders. These key questions are intended to serve as guidance to help determine if the objective of public participation in Screening has been adequately met.

Table 5: Key questions for meaningful public participation at the Screening step

Question	Known or Completed (Y/N)	Comments
Who is the project proponent?		
Who is financing the proposed project?		
Who are the EIA consultants (if engaged)?		
What type of project is proposed?		
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 is the justification for the proposed project?		
What are the draft project time-frames for construction and operation?		
Who are the Project Affected People?		
Who are the stakeholders?		
Are there PAP and stakeholders with particular needs to be considered in public participation (e.g. ethnic groups, women, etc.)?		
How can the PAP and stakeholders be identified?		
Was a Screening meeting held for the local community?		
Does the local community feel they had an opportunity to express their perspectives on the proposed project?		
How will the PAP and other stakeholders be able to participate in the next steps of the EIA and project development processes?		
Has the EIA Authority determined if an EIA is needed for this project (i.e. what is the Screening decision)?		
Has the Screening decision been made publicly available?		

7. STEP 2: PUBLIC PARTICIPATION IN SCOPING

7.0.1 Once the determination is made during Screening that an EIA is required for a proposed project, 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 (ToR)** for the preparation of an EIA Report.

7.0.2 The draft ToR will contain the key environmental and social impacts that will need to be investigated and assessed in the EIA Report. The draft ToR should be reviewed, and approved if appropriate, by the EIA Authority. The draft ToR should be reviewed in conjunction with the Scoping Report, which should articulate the public participation efforts to date and a detailed **Public Participation Plan** for subsequent steps in the EIA process.

7.0.3 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 the PAP and 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.

7.1 PURPOSE OF PUBLIC PARTICIPATION AT THE SCOPING STEP

7.1.1 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 issues to be included in the ToR for consideration in the EIA investigation; and
- engage the PAP and other relevant stakeholders in the design of the Public Participation Plan for the EIA investigation.

7.2 LEVEL OF PUBLIC PARTICIPATION EXPECTED

7.2.1 The Scoping step is critical to determining what will be considered during the detailed EIA investigation step. Therefore, it is vital that 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** (i.e. joint identification of project alternatives) or even **Collaborate Level** (i.e.. reaching consensus on the Public Participation Plan) could lead to a more widely-endorsed Scoping Report and 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 the PAP or other stakeholders.

7.2.2 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 stakeholders need first to be **informed** about the proposed project.
2. Once **informed**, and having been given reasonable time to consider the proposal, the PAP and 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, the PAP and stakeholders should be presented with an opportunity to review the draft ToR and Public Participation Plan to ensure they contain all the important issues for consideration during the EIA investigation.

7.2.3 The number of meetings, and the specific engagement techniques, required 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. This generally, however, requires the Scoping step to have at least two meetings with PAP and stakeholders, not including any additional meetings specifically to ensure the views of women or other vulnerable groups are adequately considered. These meetings are key to building trust over time with all stakeholders and the EIA process. This can rarely be achieved in just one meeting. 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 meetings that will be required.

7.2.4 Prior to each meeting, the EIA consultant should contact by notification letter to the villages and communities that may be impacted by the project. This should be done at least two weeks in advance 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 meeting should be to provide information to the community and to plan the next meetings with the PAP.

7.2.5 **The first engagement**

The first engagement - often in the form of a meeting close to the proposed project site - is to **inform** the PAP and 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 meeting 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 meeting will also help the EIA consultant identify who should be consulted in the future and what information should be provided.

7.2.6 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 the PAP and other stakeholders for incorporation into the Scoping report, and to present and seek feedback on the draft reports. These are the meetings, usually held at the local level, where the PAP will be given more detailed information about the EIA process and the Public Participation Plan. In addition, these meetings will allow the 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 meetings should involve the presentation of the draft ToR for the EIA investigation and draft Public Participation Plan for local communities to review and provide feedback on.

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

Table 6: Scoping engagement summary

	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>	EIA consultant, in coordination with the local community leaders	<p>To inform the PAP and stakeholders of the project proposal</p> <p>To inform the PAP and stakeholders of the EIA process</p> <p>To set the date for the next Scoping Meeting</p>

<p>2nd engagement</p>	<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 the PAP and other stakeholders (e.g. consult) on issues that should be included in the ToR</p> <p>To inform and consult with the PAP of the proposed Public Participation Plan that will include future meetings and provision of information</p>
<p>Subsequent engagements</p>	<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 ToR and seek feedback (e.g. consult) on whether it includes those issues of concern to PAP and other stakeholders</p>

7.2.8 The cost of organizing and holding these meetings is the responsibility of the EIA consultant, who will have to ensure that their contract with the project proponent covers 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 that will need to be provided.

7.2.9 The Scoping Report and the final ToR should be made publically 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 the PAP and stakeholders during the EIA Investigation step. A sample template for a Public Participation Plan is provided in Annex III.

7.3 INFORMATION TO BE PROVIDED AND COLLECTED

- 7.3.1 Information should be provided to clearly show the scope, size, and type of the project. This should include maps, drawings, diagrams and other visual information. These should explain the details of the project in a way that can be understood by the community. This may vary from community to community and area to area.
- 7.3.2 The information should be **relevant** and in a form that can be understood by the PAP and the other stakeholders. This means that technical documents should be explained in simple terms in the local language. It also means that maps, charts, brochures, and other key information or documents should be left with the community to discuss further.
- 7.3.3 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 the 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 this with the appropriate experts and the community.
- 7.3.4 Some of the key issues to be explained by the EIA consultant in the meetings during the Scoping step include:
- Project proposal description, history, justification, benefits, boundaries and limits
 - Project proposal alternatives, including alternative locations, size , technologies or operational arrangements
 - 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
 - Key environmental issues
 - Identification of potential impact avoidance, mitigation and management measures
 - Identification of the PAP and other stakeholders
 - Public Participation Plan
 - Draft ToR

Table 7: 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, 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, ToR and Public Participation Plan	EIA Consultant EIA Authority	General public

7.4 KEY QUESTIONS FOR MEANINGFUL PUBLIC PARTICIPATION AT THE SCOPING STEP

At the end of the Scoping step, the following questions should be able to be answered by the project proponent, EIA consultant, EIA Authority, PAP and other stakeholders. These key questions are intended to serve as guidance to help determine if the objective of participation in Scoping has been adequately met.

Table 8: Key questions for meaningful public participation at the Scoping step

Question	Known or Completed (Y/N)	Comments
Who prepared the Scoping Report and Terms of Reference?		
Have all the key issues and impacts that might be caused by the project, and that require investigation, been included in the ToR?		
Are the size, scale and location of the project proposal clearly identifiable?		
How much land will be required for the project? What is the current status of that land?		

What plans, maps and diagrams are available?		
Who will finance the project?		
What is the timeframe for the construction and operation of the project? How long will it take to construct?		
Was an initial Scoping meeting held early in the step?		
Was a Scoping meeting held to elicit community views on key issues and potential impacts for inclusion in the ToR?		
Was a Scoping meeting held to present the draft Scoping Report, draft 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, stakeholders and the public in relation to social and environmental matters?		
Were the public participation inputs considered in this step, and was the extent of that consideration explained?		
What are the key unresolved issues and how should they be addressed in the Scoping Report or ToR?		
Do the Scoping Report and draft ToR identify project alternatives for investigation?		
Has a tailored Public Participation Plan been prepared to guide the rest of the EIA process?		
How will the PAP and other stakeholders be able to participate in the next steps of public participation?		
Has the approved Scoping Report and ToR been made publicly available?		

8. STEP 3: PUBLIC PARTICIPATION IN THE EIA INVESTIGATION AND REPORTING

8.0.1 Once the EIA Authority has approved the Scoping Report and ToR, the task of gathering the information and preparing the EIA Report commences. The EIA consultant holds the primary responsibility in this step to make sure that effective public participation is applied in accordance with the Public Participation Plan, and that PAP, women and vulnerable groups in particular understand the project, its consequences, and the EIA process.

8.0.2 The Scoping step should result in:

- establishing baseline environmental and socio-economic data;
- identifying and evaluating impacts and project alternatives;
- developing an Environmental Management and Mitigation Plan (EMMP); and
- documenting the analysis, proposed approach, and findings in a draft EIA Report for consideration by stakeholders.

8.1 PURPOSE OF PUBLIC PARTICIPATION IN THE EIA INVESTIGATION AND REPORTING

8.1.1 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;
- the PAP and other stakeholders can contribute their opinions and expectations to the analysis;
- the PAP and other stakeholders are kept informed of progress;
- the 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.

8.1.2 Based on the information gathered, the EIA consultant will prepare the EIA Report. Once drafted, the EIA consultant should seek feedback on the draft EIA Report from both the EIA Authority and the PAP and stakeholders. This should involve at least one meeting, at which the EIA consultant presents the draft report, as well as provides opportunities for submission of comments. The EIA consultant should update the draft EIA Report following the consideration of those comments and issues raised by the PAP and stakeholders, before formally submitting it to the EIA Authority for review and decision.

8.1.3 Public participation is vital during the EIA investigation and reporting 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;
- Impacts (both direct and indirect);
- The viability of impact avoidance, mitigation and management strategies;

- Local knowledge and practices;
- PAP and stakeholder suggestions;
- Complaints, feedback, and reactions from the community; and
- Responses to any draft Resettlement Action Plan and proposed compensation, including the extent of community consent or agreement.

8.2 LEVEL OF PUBLIC PARTICIPATION EXPECTED

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

- Compliance with the Public Participation Plan in the approved ToR (and/or Scoping Report) for the EIA.
- Keeping PAP and stakeholders **informed** of progress and findings.
- **Consulting** and **Involving** (and where possible, **collaborating** with) PAP and stakeholders both before the investigation is complete and again before the report is finalized.

8.2.2 Accordingly, the minimum levels of public participation expected at the EIA investigation step are the **Inform, Consult** and **Involve Levels** on the public participation spectrum, 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).

8.2.3 As with the Screening and Scoping steps, ensuring that public participation is meaningful during the EIA report preparation step requires that PAP and stakeholders:

1. first, are **informed** about the proposed project, including its background and the Public Participation Plan, and have full information and sufficient time to consider that information;
2. second, have the opportunity through **consultation** to contribute their views and knowledge during the EIA investigation;
3. third, have the opportunity to **provide feedback** on the investigation, findings and analysis;
4. fourth, have the opportunity to formally **comment** on a draft EIA Report before it is finalized and submitted to the EIA Authority for review; and
5. finally, have access to the submitted EIA Report.

8.2.4 The number and type of engagements required 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 the stakeholders – including, of course, the extent of public participation already undertaken in the Screening and Scoping steps. Generally, at least two meetings with PAP and stakeholders, and separate meetings with women, will be required during the EIA preparation step. It is the responsibility of the EIA consultant to determine the exact number of meetings that will be required, consistent with the provisions outlined in the Public Participation Plan. Additional public participation engagement strategies to complement consultation meetings may also be required in some cases, depending on the size and nature of the proposed project and the nature of the affected community.

8.2.5 The first meeting with the PAP and stakeholders should be arranged with enough notice for the community – generally at least one or two weeks’ notice. The meeting should be arranged with the local community leader but must include all the PAP (including women, ethnic minorities, and other vulnerable groups) and not just the political leadership group.

8.2.6 The PAP and 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 the PAP to read and consider that information, before being able to respond to the issues contained in the information.

Table 9: 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?
Informing meetings (early in the investigation step)	PAP at the local level Local CSOs Relevant local authorities Project Proponent	Project proponent, EIA consultant in cooperation with relevant local authorities, and the local community leaders	To inform the PAP of the project proposal, the Public Participation Plan and the ToR for the EIA investigation To identify sources of information within the PAP and stakeholders that could contribute to the research and analysis in the investigation
Consultation meetings (during the EIA investigation and data gathering)	PAP at the local level Local CSOs Relevant local authorities Technical and scientific experts (if requested by the community or otherwise considered necessary) Project Proponent Translator/s	EIA consultant in cooperation with relevant local authorities and the local community leaders	To enable the PAP and stakeholders to contribute their knowledge, experience and views on the local environment and project proposal into the EIA data gathering process. To explain to the PAP and stakeholders the early and ongoing findings regarding the investigation findings, potential project impacts and analysis – including measures to

			<p>address these impacts.</p> <p>To provide the PAP and stakeholders the opportunity to respond to, and present their perspectives on, these findings and analyses.</p>
<p>Meetings on Draft EIA Report (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 how the PAP and other stakeholders' views have been incorporated.</p> <p>To provide information about benefits, compensation and grievance mechanisms for the PAP.</p> <p>To give the PAP and stakeholders an opportunity to respond to the draft EIA Report before it is finalized and submitted to the EIA Authority.</p>
<p>Other engagements (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 Action Plan)</p>

8.2.7 The EIA Report should contain a very clear and detailed explanation of the public participation that has been undertaken, including how the input from the 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 well invested and that their comments and concerns have been understood and accurately communicated to project proponents, decision makers, and considered in the EIA investigation. It also shows the public how their input has been translated and contributed to the project.

8.2.8 The submitted EIA Report should be accompanied by a declaration from the EIA consultant of its accuracy, completeness, and consistency with the approved ToR (including the Public Participation Plan).

8.3 INFORMATION TO BE PROVIDED AND COLLECTED

8.3.1 Throughout the investigation step, information of relevance to PAP and other stakeholders will regularly come to hand. 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 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.

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

8.3.3 All documentation provided to PAP and other stakeholders should be available on the internet, 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 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.

8.3.4 All material provided to the 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.

8.3.5 Once finalized and submitted to the EIA Authority for review, the project proponent should also make the EIA Report publically 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 10: EIA Investigation and Reporting 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 the PAP and 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

Final EIA Report and EMMP submitted to EIA Authority	Project proponent, EIA Authority	Local communities, PAP, CSOs, local authorities, media
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8.4 KEY QUESTIONS FOR MEANINGFUL PUBLIC PARTICIPATION AT THE EIA INVESTIGATION AND REPORTING STEP

8.4.1 At the end of the EIA investigation, when the EIA Report (including the EMMP) has been finalized and prepared for submission to the EIA Authority, the following questions should be able to be answered by the project proponent, EIA Authority, and interested stakeholders. These key questions are intended to serve as guidance to help determine if the objective of participation in EIA Investigation and Reporting has been adequately met.

Table 11: Key questions for meaningful public participation at the EIA Investigation and Reporting step

Question	Known or Completed (Y/N)	Comments
What were the key concerns, needs and desires of the PAP and other stakeholders regarding the project proposal?		
How were these concerns, needs and desires prioritized in the EIA investigation for research and analysis?		
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?		
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)?		
Is there a Resettlement Action Plan and/or compensation provided for in the EIA Report?		
How were stakeholder views on impact mitigation, resettlement and/or compensation considered in the preparation of the EIA Report?		
Were stakeholders given an opportunity to comment on the draft EIA Report and EMMP before it was finalized?		

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

9.0.1 Following the finalization of the EIA Report and EMMP, it is formally submitted to the EIA Authority for review. The review of the EIA Report and EMMP is undertaken by the national government EIA Authority in accordance with the country's specific national 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 Terms of Reference, followed the Public Participation Plan (and other appropriate processes), and includes an EMMP that adequately addresses the potential environmental and social impacts that have been identified. 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).

9.0.2 The EIA Authority has the primary responsibility for making sure that relevant stakeholders, sector agencies and other interested parties (e.g. technical reviewers) are involved, as appropriate, in reviewing and providing feedback on the draft EIA Report.

9.1 PURPOSE OF PUBLIC PARTICIPATION IN THE REVIEW OF THE EIA REPORT AND EMMP

9.1.1 The EIA Authority is generally 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.

9.1.2 At this review step, **the responsibility for facilitating public participation**, and the target audience for PAP and 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; and
- presenting the findings of the EIA in public participation events.

9.1.3 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-maker. This enables stakeholders to be engaged properly in the process and increases the certainty of decision-makers that all perspectives are considered 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.

9.1.4 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 following:

- the level and quality of public participation undertaken throughout the preparation of the EIA, including consistency with the Public Participation Plan;
- the 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 Report;
- whether the proposed mitigation measures and EMMP are likely to adequately reduce and/or address 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 ToR; and
- conditions that should be attached to an approval (in addition to the commitments in the EIA and EMMP).

9.1.5 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.

9.2 LEVEL OF PUBLIC PARTICIPATION EXPECTED

9.2.1 The public should have the opportunity to provide **formal submissions** on the EIA Report to be 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 participation spectrum.

9.2.2 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 – generally one month after the disclosure of the EIA Report and invitation to comment; 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 official many days of uninterrupted work.

9.2.3 As part of ensuring that all information about the EIA is publicly available, the EIA Authority should organize **consultation meetings** 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 made by attendees for consideration during the review of the EIA and preparation of a recommendation for the decision-maker.

9.2.4 Depending on the nature, scale and location of the proposed project, there may need to be one or more **consultation meetings** ensuring the PAP and other stakeholders at the local, sub-national (i.e. provincial or state), and national levels are reached.

Table 12: EIA review step - meetings summary

	Who should be Involved?	Who is responsible for arranging the meeting?	What are the desired outcomes?
Local level meeting 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 the 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 the 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 – the PAP and other stakeholders regarding the EIA to be</p>

			considered in its review. To give the EIA Authority and key decision-makers an opportunity to visit the proposed project site and gain an understanding of local issues.
Sub-national and/or national level meeting(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	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.

9.3 INFORMATION TO BE PROVIDED AND COLLECTED

9.3.1 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 Action Plan), including a concise, non-technical summary report;
- Scoping Report and approved ToR; and
- Public Participation Plan.

9.3.2 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 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.

9.3.3 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. The methods used will vary depending on the local circumstances, but could include:

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

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

9.4 KEY QUESTIONS FOR MEANINGFUL PUBLIC PARTICIPATION AT THE EIA REVIEW STEP

At the end of the EIA review, in order to make a decision to approve, revise, or reject the EIA, the following questions should be able to be answered. These key questions are intended to serve as guidance to help determine if the objective of participation in EIA Review has been adequately met.

Table 13: Key questions for meaningful public participation at the EIA Review step

Question	Known or Completed (Y/N)	Comments
Were the public's views on the EIA solicited during its preparation?		
How are these views addressed in the EIA Report?		
How was the EIA Report and associated documents made publicly available and notified?		
How were the public's views on the EIA Report solicited during the review process?		
Were the public's views on the EIA considered in the review and in the preparation of recommendations for the EIA decision-maker?		
Was there an independent technical review of the EIA?		

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

10.0.1 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 whether to approve, require amendments to, or reject outright an EIA Report ultimately rests with government. This is a decision that should be made independently, transparently and on the basis of complete information and scientific evidence.

10.0.2 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.

10.1 PURPOSE OF PUBLIC PARTICIPATION IN DECISION-MAKING

10.1.1 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, the PAP and other stakeholders may have the opportunity to appeal the decision and/or any conditions that may have been attached to the approval.

10.2 LEVEL OF PUBLIC PARTICIPATION EXPECTED

10.2.1 The focus of public participation at the decision-making step is on ensuring the PAP and other stakeholders are fully **informed** of the outcome of the EIA including 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 participation spectrum.

10.2.2 Countries that adopt the principles of Free, Prior and Informed Consent (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 be raising the level of indigenous peoples' participation in the decision-making step to the **Empower Level**.

10.3 INFORMATION TO BE PROVIDED AND COLLECTED

10.3.1 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. 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 addressed.

10.3.2 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.

10.4 KEY QUESTIONS FOR MEANINGFUL PUBLIC PARTICIPATION AT THE EIA DECISION STEP

10.4.1 Once a final decision has been made on whether or not to approve an EIA Report, the following questions should be able to be answered by the project proponent, EIA consultant, EIA Authority and interested stakeholders. These key questions are intended to serve as guidance to help determine if the objective of participation in Decision making has been adequately met.

Table 14: Key questions for meaningful public participation at the EIA Decision step

Question	Known or Completed (Y/N)	Comments
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 review of the EIA 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?		

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

11.0.1 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. In these cases, the final step in the EIA process applies – monitoring project implementation and ensuring compliance with the approval and any relevant conditions.

11.0.2 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. It is during the project implementation that the impacts will start to be felt by the PAP. As the project gets underway, there should be opportunities for the 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 key results from monitoring, compliance and enforcement of EIA reports and EMMPs can help improve the EIA monitoring system.

11.1 PURPOSE OF PUBLIC PARTICIPATION DURING PROJECT MONITORING, COMPLIANCE AND ENFORCEMENT

11.1.1 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).

11.1.2 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 (or both) government agencies (national or sub-national level) or local communities.

11.1.3 Monitoring is a continuous activity to be undertaken throughout the life of project implementation. 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.

11.1.4 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.

11.1.5 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 the PAP and other stakeholders.

11.2 LEVEL OF PUBLIC PARTICIPATION EXPECTED

11.2.1 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, and may range from ensuring the public is **informed**, through establishing independent monitoring arrangements that citizens can access (**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.

11.2.2 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. The PAP should be well represented in such a Community Consultation Committee and the 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** (and maybe even **empower**) the PAP and stakeholders so that problems and issues are dealt with quickly and efficiently.

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

11.2.4 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 a meeting with the PAP before any construction works begin on site. This meeting 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 the PAP.

11.2.5 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.

11.2.6 Operation

The operational phase will last the life of the project and shall have its own EMMP. 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. This could be air pollution, noise pollution, visual pollution, or water pollution. The waste could be recyclable waste, general garbage, or even toxic or hazardous waste.

11.2.7 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 EMMP. Public participation during this phase should also involve opportunities for the PAP and other stakeholders to contribute to plans for the rehabilitation and future of the site.

11.3 INFORMATION TO BE PROVIDED AND COLLECTED

11.3.1 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.

11.3.2 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. Monitoring reports should provide both raw technical data and accurate summaries of information that can be understood by the general public.

11.3.3 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).

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

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

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

- EMMPs and any updates
- 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)

11.3.6 The information published during the project implementation needs to be readily available to the 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.

11.4 KEY QUESTIONS FOR MEANINGFUL PUBLIC PARTICIPATION AT THE PROJECT MONITORING, COMPLIANCE, AND ENFORCEMENT STEP

11.4.1 At any point during the project implementation following an EIA approval (whether preparation, construction, operation or decommissioning and closure), the following questions should be able to be answered by the project proponent, any contractors, EIA Authority and interested stakeholders. These key questions are intended to serve as guidance to help determine if the objective of public participation in project monitoring, compliance and enforcement has been adequately met.

Table 15: Key questions for meaningful public participation at the Project Monitoring, Compliance, and Enforcement step

Question	Known or Completed (Y/N)	Comments
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, 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?		
Are there any joint monitoring activities involving PAP along with other stakeholders?		
Is there a formal Community Consultation Committee or other form of community liaison?		
Is the local community aware of the status of the project?		
Are the 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?		

ANNEX I: REGIONAL TECHNICAL WORKING GROUP ON EIA MEMBERS

	Name	Position and Organization/Institution
Cambodia	Mr. Danh Serey	Director; Department of Environmental Impact Assessment (DEIA); Ministry of Environment (MOE)
	Mr. Chea Leng	Vice Chief Officer of DEIA and Director of Division; Division of Coastal Natural Resources Management; Ministry of Environment (MOE)
	Mr. Seng Sochinda	Director of Environmental Impact Assessment Department; Council for the Development of Cambodia (CDC)
	Mr. Tek Vannara	Executive Director; The NGO Forum on Cambodia (NGOF)
	Mr. Mam Sambath	Executive Director; Development and Partnership in Action (DPA)
Lao PDR	Mr. Orlahanh Bounghalom	Director of Division of Environmental Management and Monitoring Projects; Department of Environmental and Social Impact Assessment (DEIA); MONRE
	Mr. Somvang Bouttavong	Director of Environmental Assessment Centre for Energy Projects; Department of Environmental and Social Impact Assessment; MONRE
	Mr. Sysomphorn Phetdaoheuang	Deputy Director General, Department of International Cooperation; Ministry of Planning and Investment (MPI)
	Mr. Saphet Sivilay	Project Manager; Village Focus International (VFI)
	Mr. Manolinh Thepkhamvong	Environmental Lawyer; Law and Development Partnership (LDP)
Myanmar	Mr. Sa Aung Thu	Assistant Director, Natural Resource Conservation & EIA Division; Environmental Conservation Department; Ministry of Natural Resources and Environmental Conservation (MONREC)
	Ms. Yi Yi Cho	Staff Officer, Natural Resource Conservation & EIA Division; Environmental Conservation Department; MONREC
	Ms. Yi Yi Htwe	Deputy Director, Directorate of Investment and Company Administration, Ministry of National Planning and Economic Development
	Ms. Naw Ei Ei Min	Director; Promotion of Indigenous and Nature Together (POINT)
	Mr. Htun Paw Oo	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; Office of Natural Resources and Environmental Policy and Planning (ONEP), MONRE
	Ms. Chanakod Chasidpon	Plan and Policy Analyst, Professional Level; Office of National Economic and Social Development Board (NESDB)
	Mr. Suphakit Nuntavorakarn	Public Policy Manager; Healthy Public Policy Foundation (HPPF)
	Ms. 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, MONRE
	Mr. Nghiem Viet Hai	Official, Department of Appraisal and Environmental Impact Assessment (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. Nguyen Ngọc Ly	Director; Center for Environment and Community Research (CECR)
	Mr. Trinh Le Nguyen	Executive Director; People and Nature Reconciliation (PanNature)

Additional technical assistance has been provided by national advisors:

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

And international experts, including:

- Mr. Matthew Baird
- Dr. Peter King
- Ms. Robin Coursen, US Environmental Protection Agency
- Ms. Vesna Kolar Planinšič, Head of SEA Department, Ministry of Environment and Spatial Planning, Slovenija, European Union

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ANNEX II: KEY TERMS AND DEFINITIONS

II.1 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.

II.2 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.

II.3 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 technology to be used in the project;
- the operational aspects of the project; and
- any other substantive characteristic or aspect of the project.

II.4 Civil Society Organization (CSO) - refers to 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.

II.5 Collaborate Level - a level in the spectrum of public participation, where the goal is to partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.

II.6 Consult Level – a level in the spectrum of public participation, where the goal is to obtain public feedback on analysis, alternatives and/or decisions.

II.7 Empower Level - a level in the spectrum of public participation, where the goal is to negotiate final decisions between the public and decision-makers.

II.8 Environment - in its inclusive sense, means 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.

II.9 Environmental Compliance Certificate (ECC) - a legal document through which the designated government EIA Authority approves an Initial Environmental Examination (IEE) Report or an EIA Report, and/or an EMMP.

II.10 Environmental Impact Assessment (EIA) – a widely-applied and internationally-accepted process of identifying, predicting, evaluating, and mitigating potential impacts of development projects on the environment (in its inclusive sense – see definition of ‘environment’) prior to major decisions and commitments being made.

II.11 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).

II.12 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 contract.

II.13 EIA decision – the formal decision made by the lawfully determined decision-maker about whether to approve an EIA report (and associated documentation, including the Environmental Management and Monitoring Plan) or not, noting that other regulatory permits, licenses or approvals may also subsequently be required for the project proposal to proceed to implementation.

II.14 EIA investigation – the step of the EIA process that involves identifying and evaluating potential impacts and risks of a project proposal, including the:

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

II.15 EIA report – the documentation of all the investigations undertaken in the EIA process and the analysis and findings of the EIA investigation, generally including:

1. an executive summary;
2. a description of the applicable policy, legal and institutional framework;
3. a detailed description of the project proposal, including detailed maps and diagrams;

4. a detailed description of the relevant surrounding environment, including socio-economic settings;
 5. an explanation of the public participation processes undertaken;
 6. a description and justification of the risk assessment methodology employed;
 7. details of the impact and risk assessment, including cumulative impacts and any transboundary impacts;
 8. identification and analysis of project alternatives;
 9. the application of the mitigation hierarchy to identified impacts and risks;
 10. an Environmental Management and Monitoring Plan (EMMP);
 11. attachments with necessary additional technical information about the project proposal and EIA.
- II.16 **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 requirements, along with a detailed budget, timeframes and allocation of responsibilities.
- II.17 **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.
- II.18 **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.
- II.19 **Inform Level** - a level in the spectrum of public participation, where the goal is to provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.
- II.20 **Involve Level** – a level in the spectrum of public participation, where the goal is to work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
- II.21 **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.
- II.22 **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.

- II.23 **Project Affected People (PAP)** – a natural person, legal entity, or organization who/which are directly or indirectly affected by the investment project (or are likely to be affected) due to legally requisition of lands or real estate, changes of land category, or impacts on the socioeconomics or environmental system in their settlement areas.
- II.24 **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.)
- II.25 **Public Participation** - 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 how their input affects the decision. (Synonymous with Stakeholder Engagement.)
- II.26 **Residual Impacts** – predicted or actual impacts that remain after mitigation measures have been applied, including after project closure.
- II.27 **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.
- II.28 **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.
- II.29 **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.
- II.30 **Terms of Reference (ToR)** - a description of all works to be undertaken when carrying out an EIA, including data gathering and analysis and public participation processes, in accordance with the scoping report prepared for the EIA.
- II.31 **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'.

II.32 **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 and 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 ethnic minorities, women, people with disabilities, children, the elderly, etc.)

ANNEX III: SAMPLE PUBLIC PARTICIPATION PLAN TEMPLATE

A typical Public Participation Plan generally includes the following sections and information²¹:

III.1 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.

III.2 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.

III.3 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).

III.4 Methodologies, tools, and techniques: appropriate methodologies should be selected to reach the goals described above. This section should give detail about the nature of

²¹ Adapted in part from ERM. 2002. Development of an EIA/SEA System for the Lower Mekong Basin: Proposed System, Element 5: Guidelines on Public Participation in Environmental Assessment. Final Report prepared for the Mekong River Commission.

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.

III.5 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.

III.6 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.

III.7 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.

III.8 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.

III.9 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.

III.10 Post-decision: the Plan should provide for informing stakeholders of decisions taken about the project, and for continuing communication if necessary.

III.11 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 IV: OUTLINE OF A GENERIC STRUCTURE AND CONTENT OF A PROJECT DESCRIPTION

Brief Presentation	Guidance 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	Present a diagram with the planned timing of: <ul style="list-style-type: none"> - Studies (incl. 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	Description of each of the main characteristics of the project: <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 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	<p>Expected workforce (if possible workforce per job type) and origin of workforce</p> <p>Type and location of worker accommodation</p> <p>Health and Safety commitments</p>
Decommissioning / Closure / Post Closure Phase	
16. Overview	Closure Plan Requirements (Strategy, Policy, Main Objectives, time schedule, budgets, etc.)