

GOOD PRACTICES in National Systems for Environmental and Social Impact Assessment

A LITERATURE REVIEW

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Abbreviations and Acronyms

ASA	Advisory Services and Analytics (World Bank)
CCDR	Country Climate Development Report
CEA	Country Environmental Analysis (World Bank)
CEAA	Canadian Environmental Assessment Agency
CSA	Country Social Analysis (World Bank)
DPF	Development Policy Financing (World Bank)
EC	European Commission
ECA	Europe and Central Asia (World Bank region)
EIA	Environmental Impact Assessment
ELAW	Environmental Law Alliance Worldwide
EMP	Environmental Management Plan
ESF	Environmental and Social Framework (World Bank)
OP SIS	Environmental and Social Framework Implementation Support Unit, Operations Policy and Country Services (World Bank)
ESCP	Environmental and Social Commitment Plan
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standards (World Bank)
FAO	Food and Agriculture Organization of the United Nations
FOEE	Friends of the Earth Europe
FPIC	Free, prior and informed consent
GRS	Grievance Redress Service (World Bank)
IAAC	Impact Assessment Agency of Canada
IAIA	International Association for Impact Assessment
IDB	Inter-American Development Bank
IEMA	Institute of Environmental Management & Assessment (United Kingdom)
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IPF	Investment Project Financing (World Bank)
IISD	International Institute for Sustainable Development
LEGEN	Environmental and International Law Unit, Legal Vice Presidency (World Bank)
MITADER	Ministry of Land, Environment and Rural Development (Mozambique)
NCEA	Netherlands Commission for Environmental Assessment
ODI	Overseas Development Institute (United Kingdom)
OECD	Organization for Economic Cooperation and Development
PforR	Program-for-Results
PRI	Principles for Responsible Investment
SAIEA	The Southern African Institute for Environmental Assessment
SCD	Systematic Country Diagnostic (World Bank)
SEA	Strategic Environmental Assessment
SDGs	Sustainable Development Goals
SIA	Social Impact Assessment
SIMP	Social Impact Management Plan
SPREP	Secretariat of the Pacific Regional Environment Programme
TOR	Terms of Reference
TPM	Third-party monitoring
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECE	United National Economic Commission for Europe
UNEP	United Nations Environment Programme
UNGP	United Nations Guiding Principles on Business and Human Rights
WDR	World Development Report (World Bank)
WJP	World Justice Project



Executive Summary

Executive Summary

National systems for environmental and social impact assessment (ESIA) are designed to improve the environmental and social performance of projects and support countries' sustainable development strategies. National governments deploy a broad set of strategies, institutions, laws, regulations and procedures to assess, avoid, mitigate and manage the environmental and social impact of government policies and public or private investment. Within this broader ecosystem, national systems for ESIA help predict and manage social and environmental impacts. The World Bank Environmental and Social Framework (ESF) requires Borrower countries to implement Bank-financed projects in accordance with the Environmental and Social Standards (ESSs), including an assessment of the project's environmental and social risks and impacts. (See, e.g., World Bank 2017, ESS1, para. 14). In addition, the ESF states that the World Bank supports efforts to strengthen, and, as appropriate, utilize Borrower countries' environmental and social systems in the context of Bank-financed projects. (World Bank 2017, Policy, paras. 23-29). Similarly, the International Finance Corporation's Performance Standards envision private sector ESIA processes that align with national ESIA systems. (IFC 2012, PS1, para. 6). The use of ESIA by multilateral development banks like the members of the World Bank Group has catalyzed the expansion of national ESIA systems and nearly every country now utilizes national systems for ESIA. (UNEP 2018, 19).

The objectives of this Literature Review are to identify trends, findings and gaps in global literature focused on national systems for ESIA. The Review analyzes global ESIA literature in an effort to inform the World Bank's response to Borrower country requests for assistance in strengthening national systems for ESIA, provide input to broader World Bank country strategies and identify priority areas for future World Bank engagement. The Review concludes with recommendations for how the World Bank Group can support Borrower countries, in partnership with civil society, proponents and the public, in efforts to strengthen national systems for ESIA.

This Review focuses on literature related to national systems for ESIA as opposed to individual ESIA reports. A national system for ESIA is defined by the Netherlands Commission for Environmental Assessment (NCEA) as (i) the regulatory environment, (ii) the capacity of organizations within that environment and (iii) the quality of a set of core functions necessary for effective ESIA. (NCEA 2017, 1). In this way, national systems extend beyond a single ESIA report or process¹ and encompass both the assessment of environmental and social impacts as well as the implementation of processes to manage and monitor these impacts. Figure 1, below, visualizes how national systems for ESIA are rooted in goals and principles and involve a range of relevant actors and standards which are incorporated into the scope of this review.

Figure 1. Illustrative National System for ESIA

Goals: Effectively identify, avoid, minimize, reduce or mitigate the environmental and social risks of projects.

Principles: predictable, purposive, practical and relevant, adaptive and flexible, comprehensive, integrated, participatory, transparent, capable and credible, efficient and cost effective and accountable.

Core functions: screening, scoping and preliminary assessment, impact assessment, mitigation and management, the impact assessment report and management plan, review, decision making and licensing, adaptive management and monitoring and auditing.

Government institutions: executive, environmental ministry, finance ministry, planning ministry, sectoral ministries, judiciary, ombudspersons, grievance mechanisms, among others.

Relevant stakeholders: project proponents, project-affected people, indigenous peoples and historically underserved traditional local communities, civil society organizations, financiers, among others.

Relevant standards: International law, national laws and regulations, multilateral development bank standards (e.g., World Bank Environmental and Social Framework and IFC Performance Standards), industry standards (e.g., Equator Principles) and guidelines (e.g., Voluntary Guidelines on the Responsible Governance of Tenure), among others.

¹ The World Bank ESF defines ESIA as "an instrument to identify and assess the potential environmental and social impacts of a proposed project, evaluate alternatives, and design appropriate mitigation, management, and monitoring measures." (World Bank 2017, ESS1, Annex 1; emphasis added).

The primary audience for this Review is World Bank Group teams that are supporting Borrower countries to strengthen national ESIA systems. A secondary audience consists of government officials, civil society representatives and other stakeholders interested in effective national ESIA systems. This Review intends to complement and inform the range of World Bank Group tools and analytical services available to Borrower countries to strengthen their capacity to manage environmental and social risks, including Country Environmental Analyses, Overview Assessments, ESF Gap Analyses, Environmental and Social Framework Assessments, Country Systems Framework Assessments and Project-level Capacity Assessments, among others.

The Review focuses on academic and grey literature focused on ESIA. It reviews documentation and analysis from United Nations bodies, government agencies, industry groups, academic institutions and civil society organizations. It identified relevant literature through keyword searches in digital libraries of academic journals, books and primary sources. The Review examines syntheses and comparative analyses as opposed to country-specific practices. A small number of experts from the academic, multilateral and non-government sectors were interviewed to supplement the Review. This methodology has limitations in both scope and approach, which are discussed in the Introduction.

The Review focuses on goals and principles, core ESIA system functions, and select design features of national systems for ESIA. An Introduction describes the scope and methodology of this Literature Review. Chapter 2 analyzes literature investigating the goals and core principles that underpin effective national systems for ESIA. Chapter 3 explores the core functions of national ESIA systems including: screening; scoping; the ESIA report; review, decision-making and licensing; adaptive management; and follow-up, monitoring and auditing. It also reviews literature analyzing legal frameworks and public financing strategies for national ESIA systems. Chapter 4 explores seven design features of national ESIA systems identified by the Literature Review team. These design features were identified based on consultations with environmental and social experts within the World Bank and reflect the salient issues and challenges from the World Bank's past engagements with Borrower countries to strengthen their national ESIA systems.

These select design features analyzed in Chapter 4 are: i) accounting for social impacts in national systems for ESIA; ii) strengthening public participation; iii) improving effectiveness and political economy considerations; iv) strengthening expertise, independence and accountability; v) assessing transboundary impacts; vi) incorporating the mitigation hierarchy into national ESIA systems; and vii) managing emerging risks and impacts such as climate change and civic space. Chapter 5, the conclusion, summarizes findings and makes recommendations for possible next steps for the World Bank Group, Borrower country and civil society efforts to strengthen national ESIA systems.

Findings

The Review finds significant consensus on the core principles and functions of national ESIA systems. Over the last 30 years, the environmental impact assessment field has coalesced around key principles that should inform ESIA, including adaptive, participatory and accountable assessment and management of impacts and risks. Similarly, the literature consistently describes the core functions of ESIA systems as screening and scoping, impact assessment, ESIA review, and decision making and monitoring (among other functions), with some acknowledged differences in approach and emphasis.

The Literature Review also finds areas of divergence, including the ways in which literature recommends accounting for social impacts in national systems, effectively and adaptively managing risks, and enabling the meaningful participation of project-affected communities. For example, some literature suggests that social risks should be managed through national ESIA systems whereas other literature suggests that social risk presents particularities that are better addressed through separate, complementary strategies. Other literature critiques ESIA systems as being too focused on a regulatory decision in the form of a project's ESIA approval and not sufficiently focused on adaptive management and implementation monitoring. Finally, while there is general agreement that public participation in ESIA processes is important, there is significant divergence around what it should entail; literature identifies a wide spectrum of activities to enable meaningful participation, including capacity building and independent support to project-affected communities.

This review also finds gaps in national ESIA systems literature. Literature tends to place emphasis on the technical aspects of ESIA, for example methods for the ESIA report, and comparatively less emphasis on assessing the effectiveness of national systems. The literature recommends that national systems for ESIA should be rooted in countries' broader governance and decision-making structures. However, literature focused on the strategies and approaches policy-makers can take to concretely strengthen ESIA gov-

ernance and effectiveness remains relatively sparse. Relatedly, there is a gap in literature focused on mechanisms to finance effective, efficient and independent national ESIA systems.

Table 1 and Table 2 summarize key findings on core functions of national systems for ESIA and the ESIA system design features identified by the World Bank team.

Table 1. Findings on Core Functions of National Systems for ESIA

FUNCTION	FINDINGS
Screening	<ul style="list-style-type: none"> Screening advances proportionality by prioritizing ESIA resources for projects with potential for significant impacts. Effective screening may deliver cost-effective environmental and social mitigation measures, including deciding when a full ESIA is not needed. Screening is unevenly utilized across national systems.
Scoping and preliminary assessment	<ul style="list-style-type: none"> Participatory scoping processes help clarify goals and ensure that resources spent on the ESIA process are targeted towards priorities agreed upon by stakeholders, including government agencies and affected communities. Scoping and preliminary assessment present an important opportunity to strengthen ESIA coordination among government agencies and other stakeholders.
The ESIA report and management plan	<ul style="list-style-type: none"> The ESIA report should anticipate impacts, recommend project alternatives and/or mitigation strategies and propose ways to monitor and address impacts. At this phase, national systems for ESIA should require legally enforceable social and environmental management plans, but enforceable management plans are not utilized consistently across countries.
Review, decision making and licensing	<ul style="list-style-type: none"> The ESIA system should promote coordinated and independent review and approval of ESIA reports and projects; granting sectoral ministries sole approval authority without effective coordination with environmental agencies may trigger actual or perceived conflicts of interest. Some national systems use a multi-stakeholder mechanism, composed of different government agencies and other stakeholders, to review ESIA reports while others rely on an inter-governmental committee or a single agency for review; a multi-stakeholder review mechanism can help ensure adequate social, environmental and other sources of expertise at the review phase. Some systems conduct only a procedural review of reports (i.e., whether the process outlined in the ESIA legislation was followed), whereas others require a review of the substance of the report as well as the acceptability of anticipated impacts (i.e., whether the proposal adequately responds to the science and public inputs). Final decision-making authority varies but is most effective when the criteria for final decision are established, project approval conditions, requirements and expected timelines are clearly spelled out, and decisions are publicly available.
Adaptive management	<ul style="list-style-type: none"> Adaptive management is a critical strategy for effective and ongoing implementation of national systems for ESIA. A stronger legal basis is needed for adaptive management to ensure the proponent implements the agreed-upon ESIA approval conditions. Adaptive management is a multi-stakeholder effort and the regulator, project proponent, affected communities, and public all have roles to play.
Follow-up, monitoring and auditing	<ul style="list-style-type: none"> The follow-up, monitoring and auditing of compliance with the license/approval conditions are identified as key shortcomings of many ESIA systems. Transparency and public participation are key elements of effective monitoring and auditing, with third-party or external auditing and monitoring as an important external tool.

Table 2. Findings on Select Design Features of National Systems for ESIA

DESIGN FEATURE	FINDINGS
<i>Social Impacts</i>	<ul style="list-style-type: none"> • Social impacts related to a planned project may start to occur before a traditional ESIA process begins. • National systems for ESIA increasingly account for both social and environmental risks; some systems pursue an integrated assessment of both types of risks, whereas others consider them in parallel assessments with varying degrees of coordination. • Some national ESIA systems predate the rise in awareness of certain social concerns and issues, such as project-related gender-based violence, and thus may be insufficiently tailored to those concerns. • Social practitioners place particular emphasis on community agency and the sufficiency of consultations in project planning and implementation.
<i>Effective Participation</i>	<ul style="list-style-type: none"> • Stakeholder participation within ESIA systems is critical; definitions, approaches and requirements, however, differ across national systems. • Emerging good practice includes national systems and proponents offering communities capacity building and dedicated funding for active participation within ESIA processes. • Civil society and community groups are key partners in realizing effective and meaningful participation.
<i>Expertise, Independence and Accountability</i>	<ul style="list-style-type: none"> • National ESIA systems provide options to strengthen the competent, independent and accountable review and monitoring of projects. • The certification of environmental and social consultants and firms can be an important strategy to uphold basic professional standards. • Relatively little literature explores how to finance core ESIA system functions in a way that is efficient and promotes independence and accountability. • Transparency is essential for maintaining accountability, including the public dissemination of documentation from national ESIA systems.
<i>Effectiveness</i>	<ul style="list-style-type: none"> • Relatively little literature documents the extent to which national systems for ESIA influence project-related decision making and ongoing implementation. • There is also sparse literature assessing how national systems for ESIA best connect with broader efforts to improve governance or enhance business and investment activities.
<i>Transboundary Impacts</i>	<ul style="list-style-type: none"> • Procedures to account for transboundary impacts are increasingly recognized as an important element of effective national ESIA systems. • Transboundary ESIA entails unique challenges, including applying minimum standards found in regional agreements.
<i>Mitigation Hierarchy</i>	<ul style="list-style-type: none"> • While a number of national ESIA systems are working to incorporate the mitigation hierarchy, it remains infrequently integrated into most national systems.
<i>Emerging Risks</i>	<ul style="list-style-type: none"> • National ESIA systems are increasingly being called upon to integrate new perspectives and emerging dimensions of environmental and social risks and impacts, including civic space, climate change and new technologies.

Recommendations

The Literature Review offers recommendations for how the World Bank Group can support Borrower countries' efforts to strengthen national systems for ESIA. The Review provides recommendations focused on additional areas for research, the development of knowledge products and technical, operational and financial assistance to Borrower countries to help strengthen their national systems for ESIA.

Efforts to strengthen national systems for ESIA should rely on inclusive and participatory processes.

The identification of strategies to strengthen national systems should be informed by the World Bank Group's ongoing engagement with Borrower countries, civil society, academia and the private sector. The insights of this Review would be strengthened by more in-depth analyses of specific country experiences, including around the topics highlighted in Table 3.

As summarized in Table 3, the Review identifies possible additional engagements by the World Bank Group across three themes: i) Strengthening a Systems Approach to National Systems for ESIA, ii) Improving Core Functions of National Systems for ESIA and iii) Accounting for Emerging Risks and

Practices in National ESIA Systems. As the introduction and methodology explain, further engagement is needed with World Bank teams, Borrower countries, and broader constituencies to prioritize among these engagement options.

Table 3. Recommendations for the World Bank Group

THEMES	POSSIBLE WORLD BANK GROUP ENGAGEMENTS	ILLUSTRATIVE POINTS OF ENTRY
1. Strengthening a Systems Approach to National Systems for ESIA		
National Systems Analysis	Support efforts to comprehensively assess national ESIA system performance to identify priorities for system strengthening, including calculating costs of delays and inefficiencies as well as benefits of effective, efficient and participatory assessments.	Systematic Country Diagnostic (SCD), Country Environmental and Social Analysis (CEA/CSA) and Advisory Services and Analytics (ASA)
	Improve analysis of national ESIA systems through World Bank analytical work and financing instruments, including documenting the role of effective national ESIA systems in enhancing business and investment activities and achieving environmental and social policy goals.	SCD, CEA/CSA, ASA, Country Partnership Frameworks (CPF), Overview Assessments, Country Climate Development Reports (CCDRs), Investment Project Financing (IPF), Development Policy Financing (DPF) and Program-for-Results (PforR)
	Advance empirical research assessing core factors that impact the performance of national systems for ESIA, in partnership with academia and civil society.	ASA
Legal frameworks	Develop internal publication for World Bank teams clarifying international, regional and national legal bases for national ESIA systems.	ASA
	Document concrete strategies to strengthen the legal basis and enforcement of select national system principles and functions, including proportionality, meaningful participation, adaptive management and monitoring.	ASA, IPF, DPF, PforR
Financing and Political Economy	Research and document public financing strategies that improve independence within national ESIA systems.	ASA
	Support interested Borrower countries in efforts to pursue public financial management reforms to strengthen national ESIA systems and improve effectiveness.	IPF, PforR and DPFs
	Research linkages between national ESIA system effectiveness and business regulations.	ASA
	Launch new interdisciplinary research, including political economy analyses, to understand how to effectively and independently finance ESIA systems and integrate ESIA systems into broader systems of governance.	ASA

THEMES	POSSIBLE WORLD BANK GROUP ENGAGEMENTS	ILLUSTRATIVE POINTS OF ENTRY
Standards and System Alignment	Research the role, relation and coordination of national, international, industry and civil society standards for national ESIA systems.	ASA
	Develop publications on ways to strengthen overall ESIA system performance as part of Overview Assessments and the use of all or part of a Borrower's environmental and social framework under the ESF.	ASA
	Convene a working group with other multilateral development banks to coordinate research and capacity building initiatives related to national ESIA systems.	ASA
2. Improving Core Functions of National Systems for ESIA		
Adaptive Management and Monitoring	Document good practices for adaptive management in national ESIA systems, including strengthening financing for adaptive management and incorporating adaptive management commitments into binding licensing conditions.	ASA
	Document good practices for monitoring in national ESIA systems, including strengthening independent financing for monitoring, incorporating monitoring commitments into licensing conditions, improving monitoring coordination, and expanding community and third-party monitoring models to strengthen supervision.	ASA
	Support Borrower countries interested in strengthening the supervision, monitoring and adaptive management functions of their national ESIA systems, including through licensing conditions, financing mechanisms, coordination and community and third-party monitoring measures.	IPF, DPF, PforR
Social and Environmental Coordination	Analyze and document select country experiences in coordinating and/or integrating social and environmental aspects in ESIA systems.	ASA
	Support Borrower country efforts to operationalize social and environmental coordination or integration, including through guidelines for institutional mechanisms to strengthen sectoral collaboration as well as good practice examples of key operational levers, including terms of reference, tender documents, and budget tools.	ASA, IPF, PforR and DPFs
	Strengthen internal World Bank coordination among safeguards, legal, environmental, social, governance, and public financial management teams to provide integrated client support for national systems for ESIA.	ASA
Public Participation	Research and document good practices and recent innovations in public participation within national systems for ESIA, including civil society partnership models, community capacity building and strategies to provide independent legal and technical assistance to communities to support effective public participation in national ESIA systems. Also document and analyze costs of weak public participation.	ASA
	Support interested Borrower countries in their efforts to strengthen public participation in national ESIA systems, including through the above strategies.	IPF, PforR, DPFs
3. Accounting for Emerging Risks and Practices in National ESIA Systems		
Climate Impacts	Research and document strategies to integrate climate change analyses into national ESIA systems and use national ESIA systems to advance national and international climate change goals.	ASA, CCDRs
	Support operational programs for Borrower countries looking to integrate mitigation hierarchy, cumulative impacts and broader climate change analyses into ESIA systems.	IPF, PforR and DPFs
New Technologies	Research recent innovations and deployment of new technologies in national systems for ESIA.	ASA
	Support operational programs for Borrower countries to integrate new technologies into national ESIA systems.	IPF, PforR and DPFs
Other Areas	Research the issues that were beyond the scope of the Review, such as the links between national systems for ESIA and corruption, social inclusion and civic space, governance, procurement and benefit sharing.	ASA

Chapter 1

Chapter 1: Introduction

Nearly all countries have developed national systems to assess and manage environmental and social risks in the context of investment and development. The structure, characteristics and effectiveness of these national systems vary. This Literature Review analyzes literature focused on national systems for environmental and social impact assessment (ESIA), a key element of country systems to assess and manage environmental and social risks. The goal of the Literature Review is to identify areas of good practices as well as divergences and gaps in the literature focused on ESIA systems. It seeks to inform the World Bank's response to Borrower country requests for assistance in strengthening national systems for ESIA, provide input to broader World Bank country strategies and identify areas for future World Bank engagement. The Review concludes by offering recommendations for how the World Bank can support Borrower countries in their efforts to strengthen their national systems for ESIA.

National systems to assess and manage environmental and social risks and impacts are based on a range of national, regional and global legal frameworks. Beginning with the passage of the National Environmental Policy Act in the United States in the late 1960s through to the United Nations (UN) Sustainable Development Goals (SDGs) in 2015, ESIA has emerged as a core feature of national and global governance. Principle 17 of the 1992 Rio Declaration, for example, recommends that countries conduct environmental impact assessment (EIA) when projects "are likely to have a significant adverse impact on the environment." (Rio Declaration 1992, Principle 17). The UN Guiding Principles on Business and Human Rights (UNGPR) (United Nations 2011) as well as the Organisation for Economic Co-operation and Development (OECD) Guidelines on Multinational Enterprises (OECD 2011) recommend practices for assessing and managing social and environmental risks. The 2018 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement) similarly calls for the broad dissemination of ESIA processes and stakeholder consultations when development projects and activities have or may have significant environmental impact. (Escazú Agreement

2018, Article 7, paras. 9 and 17). The World Bank and other multilateral development institutions have incorporated environmental and social impact assessment and management in their financing procedures, which have also played a significant role in catalyzing the development of national systems for environmental and social impact assessment, particularly in developing countries. (UNEP 2018, 19).

The World Bank and International Finance Corporation (IFC) require Borrower countries to assess and manage environmental and social risks and impacts through a range of tools, including ESIA. For example, the World Bank's Environmental and Social Framework (ESF) requires Borrower countries to undertake an environmental and social assessment, defined as the "process of analysis and planning used by the Borrower countries to ensure the environmental and social impacts and risks of a project are identified, avoided, minimized, reduced or mitigated." (World Bank 2017, ESS1, Annex 1). Countries use a broad set of institutions, laws, regulations, procedures and strategies to assess, avoid, mitigate and manage the environmental and social risk of government policies or public and private investment. Within this constellation, national systems for ESIA are key to anticipating and managing environmental and social impacts.

This Literature Review focuses on national systems for ESIA, which the Netherlands Commission for Environmental Assessment (NCEA) defines as (i) the regulatory environment, (ii) the capacity of organizations within that environment and (iii) the quality of a set of core functions necessary for effective ESIA. (NCEA 2017, 1).² As understood, national systems extend beyond a single ESIA report or process and encompass both the assessment of environmental and social impacts as well as the implementation of processes to manage and monitor these impacts.

National systems for ESIA consider and manage both environmental and social risks. The OECD, for example, defines environmental impact assessment (EIA) to include both environmental and social dimensions, including health, resettlement and other social consequences. (OECD 1992, 7). Many national EIA frameworks also include social and cultural dimen-

² The World Bank ESF defines ESIA as "an instrument to identify and assess the potential environmental and social impacts of a proposed project, evaluate alternatives, and design appropriate mitigation, management, and monitoring measures." (World Bank 2017, ESS1, Annex 1, emphasis added).

sions within the definition of the “environment.” (UNEP 2004, 52). The ESF includes social and environmental perspectives and envisions the consideration of a range of environmental and social risks and impacts including: those identified by the Environmental Health and Safety Guidelines, threats to community safety, those related to climate change and transboundary risks or impacts, threats to human security, disparate impacts, discrimination, and culture heritage, among others. (World Bank 2017, e.g. ESS1 para. 28). The IFC Performance Standards similarly envision coordinated assessment and management of social and environmental impacts. (IFC 2012, 3). Consequently, the Literature Review uses the term ESIA to refer to the coordinated assessment, management and monitoring of social and environmental risks and impacts, unless a specific distinction is made among EIA, social impact assessment (SIA), ESIA and other instruments.

1.1. Objective and Scope

The Literature Review seeks to inform World Bank Group and Borrower country strategies to strengthen national systems for ESIA. The primary objective of the Review is to identify trends, findings and gaps in the global literature focused on national systems for ESIA across regions and income levels. Through broad analysis of literature assessing good practices, the Review seeks to inform strategies to strengthen national ESIA systems. This Review is also relevant to World Bank Borrower countries in their implementation of the ESF in World Bank-financed projects. The ESF states that the World Bank will support efforts to strengthen and, as appropriate, utilize Borrower countries’ environmental and social systems in the context of Bank-financed projects. (World Bank 2017, Policy, para. 2). Similarly, the IFC’s Performance Standards envision ESIA processes that align with national ESIA systems as well as, when applicable, internationally recognized standards, certification schemes, or codes of practice. (IFC 2012, PS1, para. 6). This Review seeks to support World Bank Group efforts to strengthen national systems for ESIA. The Review does not focus specifically on World Bank Group practice and experience in these areas, but instead takes a broader perspective. Some teams within the World Bank Group have previously studied good practices in project- or sector-specific ESIA or EIAs as well as national systems, but these earlier efforts have predominantly focused on environment rather than social aspects.

They also focused primarily on a subset of regions and sectors, and some are also dated.

The primary audience for this Review is World Bank Group teams that are supporting Borrower countries in strengthening their ESIA systems. This audience includes World Bank Group management, task team leaders, and specialists focused on social and environmental risk management, policy reform and analytical services related to national or sectoral ESIA systems. A secondary audience consists of government officials, civil society and other stakeholders interested in effective national ESIA systems. This Review intends to complement and inform the range of World Bank Group tools and services to strength capacity to manage environmental and social risks, including Country Environmental Analyses, Overview Assessments, ESF Gap Analyses, Environmental and Social Framework Assessments, Country Systems Framework Assessments and Project-level Capacity Assessments, among others.

Following the components of a national ESIA system represented in Figure 2, this Literature Review explores goals and principles, core functions, and select design features of national systems for ESIA. After this introduction, Chapter 2 analyzes literature focused on the goals and core principles that underpin effective national systems for ESIA. Chapter 3 reviews the core functions of national ESIA systems, and reviews literature analyzing legal frameworks, core assessment and management functions, and public financing for national systems. Chapter 4 explores seven design features of national ESIA systems identified by the Literature Review team. The Review team identified these design features based on consultations with environment and social experts within the World Bank to identify salient issues and challenges from the World Bank’s past engagements with Borrower countries to strengthen national ESIA systems. The design features analyzed are: i) accounting for social impacts in national systems for ESIA, ii) strengthening public participation, iii) improving effectiveness and political economy considerations, iv) strengthening expertise, independence and accountability, v) assessing transboundary impacts, vi) incorporating the mitigation hierarchy into national ESIA systems and vii) managing emerging risks and impacts such as climate change and civic space. In conclusion, Chapter 5 summarizes findings from the Literature Review and recommends possible next steps for the World Bank

Group, Borrower country and civil society efforts to strengthen national systems for ESIA.

1.2 Methodology

This Review was conceptualized and overseen by the World Bank's Operations Policy and Country Services ESF Implementation Support Unit (OPSIS) and Environmental and International Law Unit, Legal Vice Presidency (LEGEN). The OPSIS and LEGEN initially conducted a scoping study of internal World Bank literature, which identified a need for this external Literature Review.

The Review focuses primarily on academic and grey literature dealing with national systems for ESIA. It reviews documentation and analysis from United Nations bodies, government agencies, industry groups, academic institutions and civil society organizations. It also identifies secondary literature through keyword searches in digital libraries of academic journals, books and primary sources. This includes searches conducted in Google Scholar, JSTOR, Elsevier's Scopus and HeinOnline.³ Key academic journals and practitioner resources were a focus, including the *Environmental Impact Assessment Review* and the *Impact Assessment and Project Appraisal* journal. The Review seeks to assess meta-analyses and comparative analyses as opposed to country-specific practices and included academic journals as well as practitioner resources. A small number of experts among academic, multilateral and non-government sectors were interviewed to supplement the Review. Annex II lists some of the main organizations and sources of expertise on national ESIA systems that were incorporated into this Review.

This Review's methodology is limited by a number of factors. First, the Review primarily focuses on comparative secondary sources and largely excludes

national and international ESIA laws and regulations themselves, as well as studies that analyze experiences from a single country. While valuable studies analyze individual national ESIA systems, the Literature Review relied on these studies for the limited purpose of documenting noteworthy national system design features or country practices, rather than to conduct a comprehensive comparative assessment of national systems and practices. Second, the Literature Review does not review specialized literature focused on assessing and managing risk in particular sectors. Numerous sectors have comprehensive and specialized research and practitioner reflection on the assessment and management of risks. Peer-reviewed academic and professional journals have devoted special editions to risk in such sectors as oil, gas and mining, hydropower and renewable energy, agribusiness and transport. Third, this Review also does not focus on the broader national environmental and social decision-making frameworks beyond the national ESIA system, for example Strategic Environmental and Social Assessment (SESA) and Cumulative Impacts Assessments (CIA). Fourth, the Review does not appraise specific literature focused on the links between national systems for ESIA and some other key topics relevant for the World Bank Group, including corruption, new technologies, procurement systems, benefit sharing agreements, resettlement guidelines, or decentralized governance models. Fifth, this Review is a desk review with a limited number of interviews. In addition, by focusing on the state of current literature, which analyzes current and past practices, this Review may fail to capture emerging trends that have yet to consistently appear in literature. Finally, the Review assesses literature available in English. While many of the leading impact assessment journals and scholarly sources are available in English, this is undoubtedly a limitation. Chapter 5 recommends additional areas of research and steps to address these scope limitations.

³ Key search terms included "environmental impact assessment," "social impact assessment," "environmental and social impact assessment," "EIA," "ESIA," "SIA," as well as "participation," "integration," "effective," "political economy," "mitigation hierarchy," "precautionary principle," "human rights," and "climate change," among others.



Chapter 2

Chapter 2. Core Principles of National Systems for ESIA

Many studies articulate values and principles that should guide the assessment and the management of environmental and social risks and impacts. While efforts to identify such values and principles exist in both the EIA and SIA literature, greater attention and refinement seems to have focused on EIA as opposed to SIA. This section summarizes efforts to identify principles focused on ESIA, noting commonalities and divergences between EIAs and SIAs.

National systems for ESIA are conceptualized differently across countries and regions. In some countries, ESIA is treated primarily as a permitting tool to authorize or deny a particular project. Other countries take a broader perspective, viewing them as a process to inform project design and ongoing decision-making, participation and adaptive management. Principles for EIA and SIA generally endorse the more expansive conceptualization of national systems, defining them as an ongoing strategy to enable participation and adaptively manage risks and impacts. This view is consistent with the approach taken by the World Bank's ESF. (World Bank 2017, e.g. Vision).

Literature describes values and principles as foundational for guiding the decisions of policymakers for strengthening national ESIA systems. The International Association for Impact Assessment (IAIA), the leading global network on impact assessment, defines values as “fundamental, ideal-typical, enduring, statements of belief” and principles as “general statements of either a common understanding or an indication as to a course of action about what ought to be done.” (Vanclay, 2003a, 8). IAIA and the Institute of Environmental Management & Assessment (IEMA) developed the international principles for EIA to “promote the effective practice of environmental impact assessment consistent with the institutional and process arrangements that are in force in different countries.” (IAIA/IEMA Principles, 1.2). In other words, principles seek to help guide policymakers in making decisions that strengthen the practice of impact assessment.

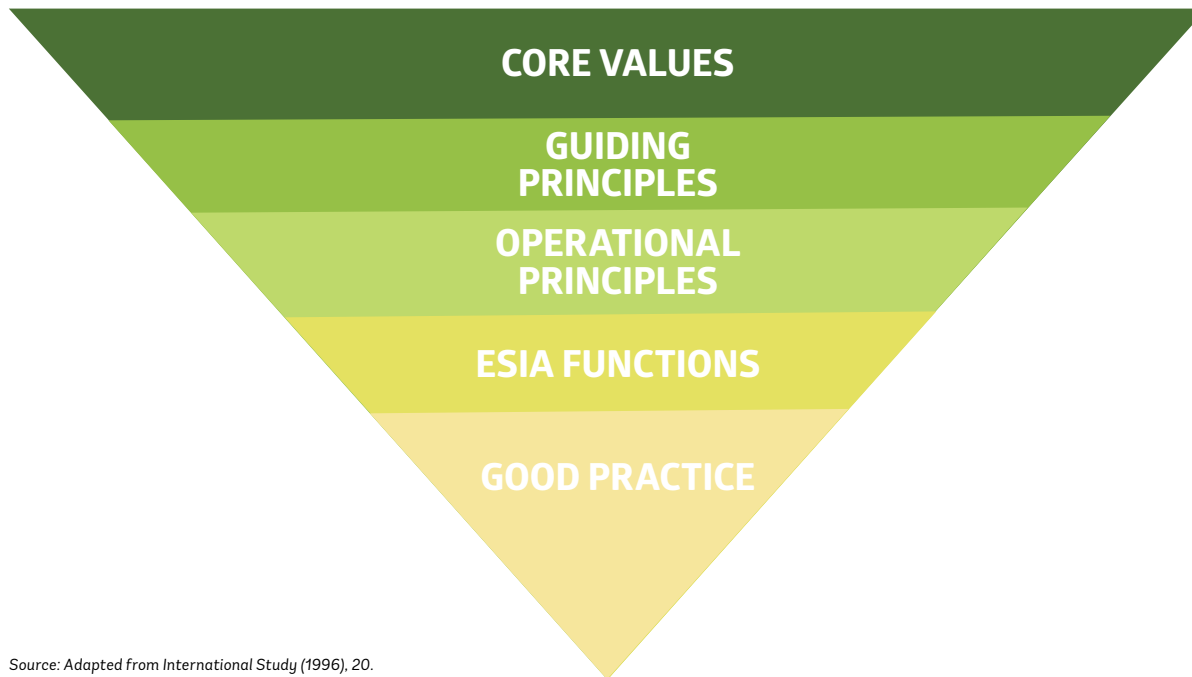
2.1. Principles for Environmental Impact Assessment

A 1996 study by the Canadian Environmental Assessment Agency (CEAA) and the IAIA identified principles and values for EIA. The joint CEAA and IAIA study, titled the International Study of the Effectiveness of Environmental Assessment (Sadler, 1996, hereinafter the International Effectiveness Study), defines environmental impact assessment as “a process of identifying, predicting, evaluating, and mitigating the biophysical, social, and other relevant effects of proposed projects and physical activities prior to major decisions and commitments being made.” (International Effectiveness Study 1996, Box 2.2.). The study was led by Barry Sadler, a consultant based in Canada who served as the director of IEMA as well as an advisor to the United Nations Environment Programme (UNEP). The study relied on national experiences from about a dozen mostly western countries to synthesize knowledge from the preceding three decades of environmental impact assessment.⁴ The study proposes a framework of values, guiding principles and operational principles that have influenced ESIA good practices over the following 25 years and remains routinely cited in ESIA literature. These principles relate primarily to the implementation of an effective ESIA process but also offer guidance for the broader national systems which govern and regulate their use.

The 1996 International Effectiveness Study identified three core values that should guide the EIA process: “Integrity—the process will conform with accepted standards and principles of good practice; Utility—the process will provide balanced, credible information for decision making; and Sustainability—the process will promote environmentally-sound development...” (International Effectiveness Study 1996, 20-21). The report suggests that core values should in turn inform the development of guiding principles, operational principles and functions and good practice as detailed in Figure 3.

⁴ Including from Australia, Canada, France, Hong Kong, Netherlands, Denmark, Finland, Iceland, Norway, Sweden, the United Kingdom, the United States and the United Nations Environment Program.

Figure 2. From Values to Principles of Good Practice



Source: Adapted from *International Study (1996)*, 20.

The International Effectiveness Study identifies fourteen guiding principles for the “Design and Development of Effective Environmental Assessment Processes.” The specific guiding principles were primarily drawn from country experiences in Australia, Canada and New Zealand. (International Effectiveness Study 1996, 22). The International Effectiveness Study’s effort to identify principles also referenced some of the preceding efforts to identify core elements of EIA practice, including efforts by the European Commission (EC), UNEP (UNEP 1987) and the OECD (OECD 1992). The International Effectiveness Study’s operational principles, which are tied to the effectiveness of specific assessment functions, will be discussed in the context of ESIA system functions in Chapter 4.

The International Effectiveness Study’s fourteen guiding principles have proven influential since their publication. The IAIA/IEMA, UNEP and EC all subsequently articulated guiding principles that either drew on, or were informed by, the International Effectiveness Study. Annex I compares guiding EIA principles from the 1996 International Effectiveness Study with subsequent efforts to articulate guiding principles, including: fourteen principles in the 1999 IAIA/IEMA Principles of Environmental Impact Assessment Best

Practice (IAIA/IEMA Principles); nine principles in the 2002 UNEP EIA Training Manual (UNEP Training Principles); nine principles in UNEP’s 2004 Environmental Impact Assessment and Strategic Environmental Assessment: Towards an Integrated Approach (UNEP Integrated Principles); and the eight principles embedded in the EC EIA Directive and listed on the EC EIA Directive Overview webpage. (EC Directive 2014, EC 2019). Barry Sadler was involved in the development of the International Effectiveness Study principles, the IAIA/IEMA Principles, and both UNEP efforts, so the convergence of these efforts is likely attributable at least in part to his involvement.

Efforts to identify EIA principles recommend that social risks and impacts should be addressed alongside environmental ones. The International Effectiveness Study, for example, recommends the consideration of not just environmental impacts but also “interrelated socio-economic, cultural and health factors.” (International Effectiveness Study, 22). The IAIA/IEMA Principles and the UNEP Integrated Principles similarly speak to the integration of social issues within environmental impact assessment, defining EIA as assessment of biophysical, social and other relevant effects. (IAIA/IEMA Principles, UNEP Integrated Princi-

ples, 6). These principles suggest that the assessment and management of social impacts alongside environmental ones can be seen as a core principle of EIA practice. This Review explores these dynamics further in Chapter 4.1.

Different efforts to articulate EIA principles over the last decades have some important commonalities. These commonalities can be clustered around 11 umbrella principles, as described in Table 4.

Table 4. Analysis of International EIA Principles

PRINCIPLE	DESCRIPTION
Predictable	The EIA process should have a “clear mandate and provisions,” be “vested in law” with “specific, enforceable requirements,” and be “linked to decision-making.” (The International Effectiveness Study, UNEP Integrated Principles).
Purposive	EIA should be a tool for “environmental protection,” “sustainable development” and “community well-being.” (The International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles and UNEP Integrated Principles). The EIA system should include analysis of feasible alternatives to the proposed action. (UNEP Integrated Principles).
Practical and Relevant	The EIA process should be focused on “problem solving” and should be a strategy for environmental management that “can be implemented.” (UNEP Integrated Principles, 42, IAIA/IEMA Principles, Part 2.4). The EIA process should provide “sufficient, reliable and usable information for development planning and decision making”. (International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles, UNEP Integrated Principles and EC 2019).
Adaptive and Flexible	The EIA process should be proportionate to its objectives and likely impacts as well as adaptable to address any proposal and situation. (International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles and the EC 2019).
Comprehensive	The EIA process should concentrate on the full consideration of all significant environmental effects and key issues. (International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles and UNEP Integrated Principles).
Integrated	EIA should account for social, economic and biophysical impacts and be carried out in a multi- or inter-disciplinary manner. (The International Effectiveness Study, IAIA/IEMA Principles and UNEP Integrated Principles).
Participatory	The EIA process should provide meaningful opportunities for involvement by affected communities and the public. Principles vary on the extent to which affected communities should have the right to shape project design, mitigation strategies and monitoring. (International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles, UNEP Integrated Principles and EC 2019).
Transparent	EIA systems should be transparent, including open processes, procedures and decisions. (The International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles, UNEP Integrated Principles and the EC 2019).
Capable and credible	Expertise should be a core element of effective EIA practice. (The International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles and the EC Principles). Expertise should be built through support, guidance and exchange. (The International Effectiveness Study).
Efficient and cost effective	EIA systems should seek to provide environmental and social protection at the least cost to society while avoiding unnecessary burdens. (The International Effectiveness Study, IAIA/IEMA Principles UNEP Training Principles, and EC 2019).
Accountable	EIA actors and decision makers should be held responsible for their actions and decisions. (International Effectiveness Study, UNEP Integrated Principles, EC 2019).

Sources: The International Effectiveness Study, IAIA/IEMA Principles, UNEP Training Principles, UNEP Integrated Principles and EC 2019.

Interestingly, while these five efforts speak to fairness and objectivity, they do not specifically identify “independence” as a standalone EIA principle. This principle does appear among the “characteristics” identified for “next generation impact assessment.” (CEPA 2021, 13, citing Sinclair et al 2021). The concept of independence of the EIA process is relevant from a technical and policy standpoint. Technically, the IAIA/IEMA Principles recommend impartiality, stating that the EIA “process should be carried out with professionalism, rigor, fairness, objectivity, impartiality and balance, and be subject to independent checks and verification.” (IAIA/IEMA Principles). From a policy standpoint, the EC speaks of accountability, defined as “decision makers responsible for their actions and decisions.” (EC 2019). However, these principles do not specifically speak of independence of the technical process or a need to ensure that the implementation of policy frameworks is free of manipulation. Other resources from IAIA and UNEP do point to independent consultation as a key aspect of different elements of a national EIA system, including responsibility for preparing impact assessments as well as decision making. (UNEP 2018, 43-44; 65-66). Chapter 4.3 explores how national assessment systems establish and maintain independence alongside sufficient expertise and accountability.

2.2. Principles for Social Impact Assessment

The IAIA has also developed International Principles for Social Impact. This effort, and subsequent literature, reveals that principles for environmental and

social impact assessment have many commonalities but also diverge in some areas. (Vanclay, 2003b). Professor Frank Vanclay, now at the University of Groningen in the Netherlands and an academic expert in SIA, served as a convener for the IAIA group that published the International Principles For Social Impact Assessment in 2003. These principles built on the IAIA 1999 EIA principles as well as 1992 Rio Declaration on Environment and Development and other guiding principles, including the Precautionary Principle. (Rio Declaration, 1992). More recently, the United Nations Department of Economic and Social Affairs published a guidance note on “impact assessment for sustainable development,” which notes that EIA and SIA belong to a large “family of impact assessment methods” that, to varying degrees and depending on jurisdictions, consider environmental and social impacts. (CEPA 2021, 2, 7-8.)

The IAIA International Principles for Social Impact Assessment focus specifically on guiding SIA practice as well as “the consideration of ‘the social’ in environmental impact assessment generally.” (Vanclay 2003a, 1). The IAIA International Principles for Social Impact Assessment are organized around i) core values, ii) fundamental principles for development and iii) principles specific to SIA practice. The IAIA International Principles for Social Impact Assessment are rooted in international, regional and national legal obligations and are arguably more values-oriented than the international EIA principles, with frequent references to equity, democratic process and legally binding human rights obligations. (Vanclay 2003a, 9). Table 5 provides a summary of these international principles.

Table 5. IAIA International Principles for SIA

PRINCIPLE	DESCRIPTION
Equitable	Equity considerations should be a fundamental element of impact assessment and development planning.
Predictive	Many of the social impacts of planned interventions can be predicted.
Adaptive	Planned interventions can be modified to reduce their negative social impacts and enhance their positive impacts.
Cohesive	SIA should be an integral part of the development process, involved in all stages from inception to follow-up audit.
Sustainable	There should be a focus on socially sustainable development, with SIA contributing to the determination of best development alternative(s) – SIA (and EIA) have more to offer than just being an arbiter between economic benefit and social cost.

PRINCIPLE	DESCRIPTION
Generative	In all planned interventions and their assessments, avenues should be developed to build the social and human capital of local communities and to strengthen democratic processes.
Beneficial	In all planned interventions, but especially where there are unavoidable impacts, investigate ways to turn impacted peoples into beneficiaries.
Flexible	The SIA should give due consideration to the alternatives of any planned intervention, but especially in cases when there are likely to be unavoidable impacts.
Mitigative	Full consideration should be given to the potential mitigation measures against social and environmental impacts, even where impacted communities may approve of the planned intervention and where they may be regarded as beneficiaries.
Contextual	Local knowledge and experience and acknowledgment of different local cultural values should be incorporated in any assessment.
Fair	There should be no use of violence, harassment, intimidation or undue influence in connection with the assessment or implementation of a planned intervention.
Inclusive	Developmental processes that infringe the human rights of any section of society should not be accepted.

Source: Vanclay 2003a.

The International Principles for SIA frame the assessment and management of social impacts in the overall life cycle of a project. Literature critiques EIA for perceived failures to link to project implementation and provide ongoing management of social and environmental issues. (Ortolano 1995, 13-22). Some critics contend that EIA serves primarily as a regulatory decision of whether and how a project should or should not proceed as opposed to a strategy for ongoing adaptive management over the course of project implementation. (IAIA Guidance Note 2015, iv). The IAIA International Principles for Social Impact Assessment recommend incorporating SIA throughout the life cycle of a project, seeking to empower communities to help conceptualize development in their contexts, debate project design and alternatives and contribute to decisions over the course of implementation. (e.g., Vanclay 2003a, Principles 4, 5 and 8).

Principles for environmental and social impact assessment help inform tradeoffs and decisions for struc-

turing national systems for ESIA. However, differences between SIA and EIA principles also raise questions around integration and approach. EIA literature often describes SIA as an approach that can be integrated into the definition and implementation of national ESIA systems. Whereas some SIA practitioners have critiqued national ESIA systems as a “box ticking” exercise and have, at times, pointed to the need for parallel processes. (IAIA Guidance Note 2015, 20). As this Review will explore further in Chapter 4, the World Bank’s ESF envisions coordinated assessment and ongoing management of social and environmental risks and impacts. (World Bank 2017). ESS10, for example, requires projects to engage with project-affected parties and other interested parties throughout the project lifecycle. (World Bank 2017, ESS10). The IFC Performance Standards similarly incorporate elements of the SIA principles by requiring “adequate” community engagement “throughout the life of the project.” (IFC 2012, 2).

Chapter 3



Chapter 3. Core Functions of National Systems for ESIA

Literature assesses good practices regarding the core functions of national systems for ESIA. A mix of qualitative and quantitative research, practitioner reflection and evaluation identifies good practices within core functions of national ESIA systems. Literature places greater emphasis on the form and process of ESIA functions and reports as opposed to the extent to which national ESIA systems manage to deliver on stated objectives.

Efforts to document effective national ESIA system functions have mostly originated in environmental literature, but literature increasingly includes social perspectives as well. As described in Chapter 2, the fields of EIA and SIA have emerged both in partnership and in parallel. Many national systems incorporate social issues within environmental assessment, and this section will explore core functions in the context of national systems for ESIA, as opposed to EIA and SIA as separate disciplines. The Review relies on a combination of social, environmental, political and economic literature.

The literature identifies capacity and sufficient resources as essential requirements for all actors within the national ESIA system. Literature consistently suggests that weak institutional and organizational capacity undermines implementation of national systems for ESIA. Capacity is understood to include governmental capacity within key institutions, capacity of consultants and those involved in the assessment process, and the capacity of communities and civil society organizations engaged with the national ESIA process. UNEP literature speaks of an “implementation gap” within national systems where legal requirements routinely fail to be fully complied with. (UNEP 2018, 7). UNEP suggests that the root causes of this implementation gap is “the absence of national capacity at all levels of government” as well as within other core actors in a national system for ESIA. (UNEP 2018, 7). A 2005 United Nations Economic Commission for Africa study similarly found that EIA capacity in many African countries fell short of what was needed to meaningfully implement existing requirements of these national systems. (UNECA 2005,

xiv-xv). These dynamics will be explored throughout this section, including in sections discussing adaptive management, monitoring and auditing and financing. Capacity and resource constraints have the potential to undermine the full range of functions in a national assessment system. The attraction and retention of talented environmental and social practitioners within institutions is identified as a challenge. Chapter 4.4 will look at capacity in the context of the political economy of national ESIA systems.

Transparency and accessibility are described as critical characteristics of effective national systems for ESIA. Access to information in environmental decision making was enshrined in the 1992 Rio Declaration and has been a core feature of ESIA good practice. (Rio Declaration, 1992). The 2018 Escazú Agreement, referenced in the Introduction, similarly provides detailed obligations around access to environmental information. (Escazú Agreement 2018, Article 5). The United National Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) has forty-seven Parties, and includes specific requirements on access to environmental information. (Aarhus Convention 1998, Article 4). These international and regional decisions have taken root in national legal frameworks and practices. In 2018 UNEP pointed to “an increasing trend” within national ESIA systems to publish screening decisions, including explicitly spelling out whether an ESIA is required and what level of review will be used and allow for appeal of this decision. (UNEP 2018, 40). Access to information allows project design and benefits to be tailored to the needs of local communities, and it strengthens accountability by providing opportunities for the decision to be debated and challenged.

This chapter assesses literature in three areas: i) legal frameworks underpinning national systems for ESIA; ii) core functions of national systems for ESIA; and iii) effective and accountable financing for national systems for ESIA.

3.1. Legal Frameworks for National Systems for ESIA

Literature analyses legal frameworks for national systems for ESIA in two ways. First, literature explores the range of international, regional and national laws and norms which require countries to establish and implement national systems for ESIA. Relevant requirements for ESIA include international law, national laws and regulations, multilateral and regional development bank standards (e.g. World Bank Environmental and Social Framework and IFC Performance Standards), industry standards (e.g. Equator Principles) and guidelines (e.g. the Voluntary Guidelines on the Responsible Governance of Tenure or VGGT), among others. Second, literature assesses the ways in which the functions of a national ESIA system are most effectively integrated through national legal frameworks. This section explores both areas.

Legal frameworks for national systems for ESIA help establish the review justification, assessment, and consultation requirements and approval criteria for proposed projects. While literature and safeguards standards have historically focused on minimizing project-related harm, literature is evolving towards an expectation that ESIA systems should screen out projects that are not adequately justified to maximize project benefits. Such a focus can help the government and the public transparently assess whether projects are in the interest of the public. The justification of a project's public purpose can have implications. For example, some international agreements, including several bilateral investment treaties, as well as national systems, only allow for expropriation (or the potential for expropriation) where there is an established public purpose for the proposed project. (OECD 2004).

Legal Obligations for ESIA

Multiple sources of law as well as standards encourage states, financial institutions and proponents to screen and manage the environmental and social risks and impacts of projects. Multiple international instruments require or encourage State Parties to use ESIA or similar assessments. These include the Rio Declaration (Rio Declaration 1992, Principle 17), the Paris Agreement (Paris Agreement 2015, Article 7.9/c), the United Nations Convention on the Law of the Sea (Law of the Sea Convention 1982, Articles 204-206) and

the Convention on Biological Diversity (Convention on Biological Diversity 1992, Article 14). The UNECE's Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention), discussed in detail in section 4.5, establishes obligations for parties to assess and mitigate transboundary environmental impacts. (Espoo Convention 1991). In addition, the International Court of Justice has recognized as a binding norm of customary international law the duty of States to "undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have significant adverse impact in a transboundary context, in particular, on a shared resource." (ICJ 2010, 83).

Emerging international and regional instruments regarding ESIA and public participation have also played an important role in catalyzing the development of national systems for ESIA. For example, the EC Environmental Impact Assessment Directive that came into force in 1985 has been updated several times since. The EC EIA Directive requires EIA for projects likely to have significant effects on the environment. (EC 2014). A separate 2014 EC Non-Financial Reporting Directive requires large companies to disclose certain information on the way they operate and manage social and environmental challenges. (EC 2014b). The Aarhus Convention, referenced above, establishes a right for those directly affected as well as environmental non-governmental organizations (NGOs) to participate in environmental decisions. (Aarhus Convention 1998). The Escazú Agreement similarly affirms the right of participation in environmental decision making in participating Latin American countries. (Escazú Agreement 2018, Article 7).

The ESIA has also become increasingly embedded in national law, alongside developments in international and regional instruments. A 2019 article by Professor Tseying Yang of Santa Clara Law School surveyed national legal frameworks in 197 countries and found that EIA is required in national law in at least 183 countries, or ninety-three percent of countries worldwide. (Yang 2019, 527). Professor Yang argues that this widespread acceptance and use of EIA as a tool of environmental governance should mean that EIA is a principle of international law under the definition of public international law. (Yang 2019, 527).

Multilateral development banks require the use of ESIA for project planning and management. The

World Bank's ESF requires that the World Bank and Borrower countries assess and manage environmental and social risk and benefit in the context of investment project financing. (World Bank 2017, Vision, paras. 2-3). The African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the European Investment Bank, among others, have developed similar safeguard policies that require the use of ESIA for projects with potentially significant environmental or social impacts. (Glasson and Therivel 2019, 48-50).

Industry standards and voluntary guidelines call on financial institutions and other actors to use ESIA. Many private sector actors may have their own ESIA requirements alongside those of the national system, and multiple requirements or standards may apply. (UNEP 2004, 29). Recent decades have seen the proliferation of multiple standards and requirements for companies. (Vanclay and Hanna 2019, 2). Key standards include the OECD Guidelines for Multinational Enterprises, the UNGP, Principles for Responsible Investment (PRI), the Equator Principles, and the VGG. (Vanclay and Hanna 2019, 2-5). As an example, the Equator Principles codify core EIA guidelines for financial institutions. The Equator Principles were launched in 2003 and are broadly consistent with the approach taken by the IFC Performance Standards. (Glasson and Therivel 2019, 48). As of early 2022, 127 financial institutions in 38 countries had adopted the Equator Principles (Equator Principles, 2022). According to an analysis by UNEP in 2018, signatories to the Equator Principles cover more than two thirds of international project finance debt in emerging markets. (UNEP 2018, 16). While these standards, principles and guidelines have some key divergences, they are generally understood to advance a reinforcing set of requirements around the assessment and management of environmental and social impacts. (Expert Interview, June 11, 2020).

As national systems for ESIA must account for multiple legal obligations and standards, the World Bank's ESF foresees the possibility of a coordinated, "Common Approach" to assessment in a given project. (World Bank 2017, Policy, para. 9) If multiple lenders are supporting a project, they may agree on a Common Approach, i.e. a jointly agreed upon set of environmental and social standards materially consistent with the objectives of the ESF. (World Bank 2017, Policy, para. 9).

Regulation of ESIA in National Frameworks

Literature also explores how environmental and social impact assessment is effectively incorporated into national policy frameworks. The literature describes how ESIA requirements are incorporated through a range of statutes, acts, regulations or guidelines. (Glasson and Therivel 2019, 43). A UNEP review found that some countries initially incorporated ESIA requirements through administrative rulemaking in particular sectors and later evolved to incorporate them through more comprehensive national legislative frameworks. (UNEP 2004, 7). Typically, countries incorporate core elements of ESIA into broad legislation with more detailed requirements contained in implementing regulations. (UNEP 2018, 6). ESIA laws often also detail specific sectoral responsibilities. (UNEP 2018, 6).

Several international resources offer comparative analysis of legal frameworks for national systems for ESIA. The NCEA and the Environmental Law Alliance Worldwide (ELAW) each maintain databases of legislation and implementing guidelines for many of the world's EIA and ESIA systems. (NCEA 2022; ELAW 2022). NCEA's database contains country profiles that analyze and provide valuable snapshots of countries' ESIA practices. The Food and Agriculture Organization of the United Nations (FAO), International Union for Conservation of Nature and UNEP jointly maintain ECOLEX, a comprehensive global database of environmental laws, that serves as an important resource of primary source documents. The Development Bank of Southern Africa and the Southern African Institute for Environmental Assessment (SAIEA) have produced four editions of a Handbook on Environmental Assessment Legislation in the Southern Africa region. (DBSA and SAIEA 2020). These resources are valuable for identifying comparative elements of legal frameworks. The ESF and IFC Performance Standards also contain core environmental and social standards that may serve as an important reference point for national systems for ESIA.

NCEA and SAIEA have developed important diagnostic tools for assessing ESIA effectiveness including a focus on legal frameworks. NCEA and SAIEA merged their approaches in 2019 to create the ESY Map Tool. (NCEA 2020; SAIEA 2011). The ESY Map looks at five dimensions of ESIA: i) process, ii) enabling conditions, iii) capacities, iv) performance and v) context. The tool

includes numerous questions about the adequacy of the legal framework including how it incorporates different ESIA functions and whether the legislation clearly sets out core ESIA principles. (NCEA 2020). NCEA and SAIEA have now used ESY Map tool in multiple countries, including with the World Bank in Uganda as well as in Pakistan, Jordan, Guinea and Tunisia.

ESIA legislation typically balances a need to be prescriptive with discretion while maintaining flexibility. The literature suggests that legislative requirements enhance certainty and can promote effectiveness. But rigidity may also constrain innovation and place undue burdens on institutions, proponents and affected communities without significant social or environmental benefits. (UNEP 2018, 7). Flexibility within national systems empowers regulators and decision makers to interpret regulations for a particular project, geography or moment. But excessive institutional discretion can also lead to inconsistent processes and confusion. (UNEP 2018, 7). Excessive discretion may also enable rent seeking as proponents take advantage of ambiguities and circumvent the intent of assessment requirements. (World Bank 2002, ii). Literature suggests that national ESIA systems should balance these two realities to implement functions in ways that promote certainty while also ensuring flexibility and effectiveness.

The ways in which core functions are allocated within national systems influences system effectiveness. Literature does not point to a uniform good practice for legislation and enabling regulations, but contextually-specific design is critical to effectiveness. The OECD Environment Policy Committee recommends that countries nonetheless establish a “clear scope and procedures for assessment of the environmental impacts.” (OECD 2020, 4). But effective institutional structures vary by context as they operate within broader governance structures in a particular country. An effective national ESIA system within a federal system, a decentralized system or a unitary system will look different. (UNEP 2018, 23-24). National ESIA systems should account for these particularized governance features that extend beyond ESIA-specific characteristics. Literature suggests that it is critical for impact assessment and management to be integrated within broader planning and decision-making structures. (International Effectiveness Study 1996, 34-35).

Literature also suggests that legal frameworks should incorporate the right to appeal ESIA decisions. UNEP’s

summary of EIA practice, for example, highlights that most countries provide for a right to administrative appeal. (UNEP 2018, 71). A key difference in national systems is whether the right to appeal concerns both substantive and procedural causes. With substantive appeals, parties can contest evidence and analysis underlying an ESIA decision, such as the scientific basis for decision-making or the authorities’ interpretation of the ESIA legal requirements. With procedural appeal, a party can only challenge whether the established process was followed appropriately. Joseph et al. surveyed seventy-five ESIA experts practicing in Canada and found that these experts recommended that appeals should be permissible for both substantive and procedural causes. (Joseph et al. 2015, 248).

Another unresolved dynamic within this right to appeal is who should have standing to launch an appeal. Some countries allow appeals only from those with a direct financial or property interest affected by the proposed project, while others allow for the proponent or the general public to appeal. (Joseph et al. 2015, 248). European courts have taken an expansive view of the right to appeal, requiring “wide access to justice” and enabling appeal by those directly affected by a proposed project as well as “environmental protection associations” and civil society groups. (Edwards 2013, 528). A final unresolved question with the right to appeal concerns jurisdiction: depending on the approach, appeals can be heard by the environmental and social assessment decision maker, within the general court system, or some other specialized body. (Joseph et al. 2015, 248).

3.2. Institutional Functions of National Systems for ESIA

The literature identifies core functions within national systems for ESIA. These typically include: screening; scoping and preliminary assessment; impact assessment, mitigation and management; the impact assessment report and management plan, review; decision making and licensing; adaptive management; and follow-up, monitoring and auditing. As explained in the Introduction, this paper takes a broad view of national systems to include not only the assessment phase but also the functions and steps leading up to and following that assessment in the management of social and environmental impacts in projects. Table 6 describes the substance of functions at each step of a national system for ESIA.

Table 6. Core Functions of National Systems for Environmental and Social Impact Assessment

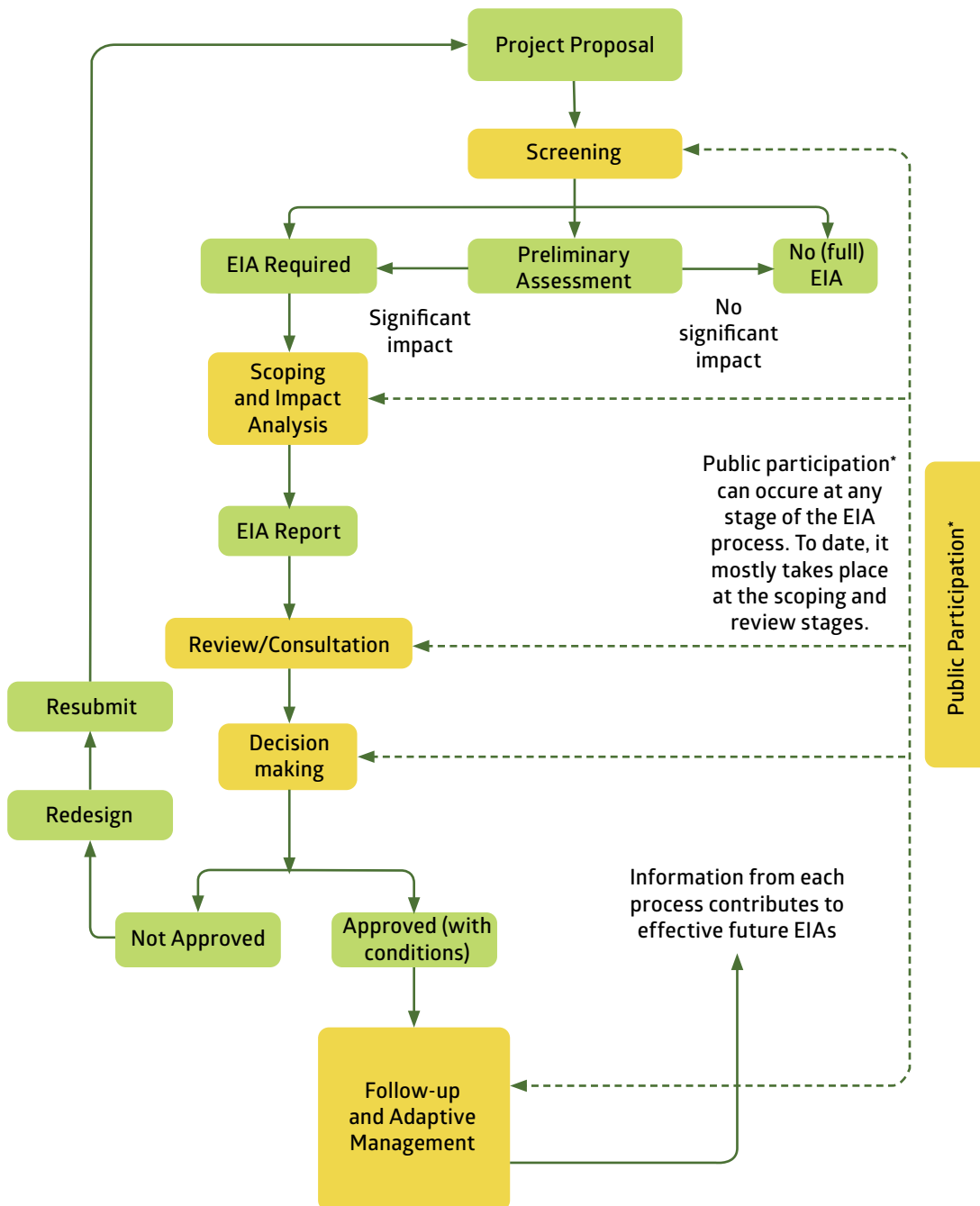
FUNCTION	SUBSTANCE
Screening	Screening is the first step to determine 1) whether a project is likely to cause significant impacts and therefore trigger an EIA or ESIA requirement under the national framework and, 2) if the assessment is required, what standard of scrutiny applies. National systems typically establish levels of scrutiny based on the significance of expected environmental, social and other relevant impacts. This step is important to strengthen proportionality by targeting appropriate review on projects with likely impacts.
Scoping and preliminary assessment	Scoping and preliminary assessment are used to identify potential project impacts that are likely to be significant. Effective national systems typically establish processes to identify what types of specific impacts should be assessed during this stage. The scoping and preliminary assessment phase typically concludes with the development of terms of reference to guide the assessment. Ambiguity at this stage can undermine the effectiveness of the broader national impact assessment system by causing the subsequent phases to either lack focus or fail to sufficiently assess key impacts.
Impact assessment, mitigation and management	Impact assessment identifies and assesses the likely environmental, social and other impacts of the planned project and select alternatives. Mitigation and management identify tools and approaches to avoid, minimize, offset and monitor the impacts that are expected to occur over the project life cycle.
The ESIA report and management plan	The EIA or ESIA report documents the findings of the assessment and describes proposed mitigation and management measures. The purpose of the report is to explain the likely impacts of the planned project, proposed measures for mitigation, the significance of effects, and the concerns of the interested public and the communities affected by the proposal. The report should include an environmental and/or social management plan to establish requirements for mitigating and managing impacts.
Review	A review body, established in accordance with legislation, assesses the report to determine whether it fulfills the ESIA legal requirements, such as conformance with the terms of reference (TOR), provision of a meaningful assessment of the planned project, and inclusion of all necessary information required for decision making. Often, the reviewer requests proponents to provide additional information to clarify outstanding questions. Good practice suggests that the public and affected communities should play a role at this stage, including to have an opportunity to learn about and make inputs into the proposed project.
Decision-making and licensing	In accordance with the requirements and criteria spelled out in national legislation, the competent decision maker under the national system approves or rejects the proposal and, as appropriate, conditions authorization on certain implementation terms and conditions. Good practice suggests that environmental and/or social management plans should be legally binding and detail implementation requirements and processes.
Adaptive management	Once a project is authorized or licensed, effective national impact assessment systems adaptively manage the environmental and social impacts of the project, implementation and sufficiency of mitigation measures. This can include making amendments and adjustments based on actual, as opposed to foreseeable, impacts as well as ongoing communication with stakeholders.
Follow-up, monitoring and auditing	Follow-up, monitoring and auditing assess compliance with licensing conditions. Monitoring is a process by which the project developer conducts ongoing assessment to ensure that no critical impact indicator exceeds levels in the license conditions. Follow-up refers to the process by which a regulator ensures that the project complies with established conditions. Monitoring and auditing should account for unanticipated impacts and undertake environmental and social audits to optimize management. National systems establish consequences for non-compliance with licensing terms and conditions. Some national systems require coordinated and joint monitoring.

Sources: International Effectiveness Study (1996); IAIA/IEA (1999); World Bank (2002); Vanclay (2003); IISD (2016); World Bank (2017); UNEP (2018); Glasson and Therivel (2019); SAEIA (2020).

The functions and processes of national EIA systems have been helpfully visualized by multiple authors. Figure 4, below, produced by UNEP in 2018 helps visualize the core functions and processes of an illustrative national EIA system. In contrast to Table 3 above,

Figure 3 visualizes monitoring, adaptive management and auditing as one phase of the national system. An illustrative process of SIA is described and visualized in Chapter 4.1.

Figure 3. National EIA System Functions and Process



Source: UNEP 2018, 32.

Literature suggests national systems are most effective when they are holistic and well-coordinated. National systems work most effectively when core functions—including those carried out by different institutions—are well coordinated and aligned towards clear decision making and monitoring. (International Effectiveness Study 1996, 110). A coordinated system does not mean that a single institution must be responsible for all functions of a national ESIA system. Indeed, effective national systems might assess different types of risks, incorporate different levels of government, private sector commitments and civil society actors as well as different sources and types of expertise. (UNEP 2004, 29).

Literature suggests that coordination challenges are both horizontal and vertical. In Nepal, for example, the World Bank Environment Sector Diagnostic identifies challenges in coordination among federal ministries as well as coordination between federal and regional entities. At a federal level, ineffective ministerial coordination between the Ministry of Forests and Environment, which has responsibility for ESIA review and approval, and line ministries was found to undermine meaningful incorporation of ESIA into project assessment and management. (World Bank 2019, 64). Between regions, the Diagnostic warns that coordination challenges with EIA assessment and approval between the federal and regional government could drive fiscal and economic instability. (World Bank 2019, 59).

Literature identifies three main approaches to overall responsibility for a national ESIA system: (i) centralized authority, (ii) specialized authority or (iii) sectoral authority. Decentralized models are also increasingly common; each has been shown to effectively manage risks in certain circumstances. As defined by UNEP, in a centralized ESIA system, the national environmental ministry or agency has the responsibility for coordinating, implementing and supervising the national system. In a specialized ESIA system, a dedicated national agency is created to coordinate, implement and supervise the assessment and management process. In a sectoral ESIA system, sectoral ministries or agencies have primary responsibility for licensing in their area of responsibility, often supported by coordination from the environment ministry or agency. In addition, federal systems may involve some sharing of national system roles and responsibilities among the national government and regional or local government (UNEP 2018, 30).

This subsection analyzes good practice around the core functions of national systems: screening; scoping and preliminary assessment; impact assessment, mitigation and management; the report and management plan; review, decision making and licensing; adaptive management; and monitoring and auditing.

Screening

Screening is typically the first phase of a national assessment system that determines whether an ESIA is needed and what level of review is required based on foreseeable risks. Screening plays an important role in ensuring that the ESIA process is consistent with its objectives, proportionate to likely impacts and adaptable to a range of situations. In 2018, UNEP suggested that screening should be separate from scoping but it is inconsistently integrated into national systems. The screening phase is most effective when requirements for information are clearly established in law and policy. (UNEP 2018, 31). Screening can help ensure that projects with likely significant risks are assessed while excluding projects without reasonably foreseeable or serious impacts. The World Bank ESF affirms the importance of effective screening and requires the analysis of screening capacity within Borrower country systems before country systems can be used to manage risks in World Bank-financed projects. (World Bank 2017, Purpose, para. 36). Failing to effectively screen projects can overload national systems and may fail to target ESIA resources towards projects with the greatest foreseeable impacts. The World Bank environmental team in Europe and Central Asia (ECA) suggests that ambiguities in screening can encourage corruption as proponents and government regulators may negotiate what standards apply. (World Bank 2002, ii).

Literature discusses two approaches to screen projects in national systems based on potential risks: the “threshold” and “case-by-case” approaches. (Glasson and Therivel 2019, 86). Screening approaches vary significantly both between national systems and within countries with federal or decentralized governance. (Rocha & Fonseca 2017). The “threshold” approach categorizes projects based on scale and risks of foreseeable impacts and then assesses projects falling into different categories within the established level of scrutiny. (Glasson and Therivel 2019, 86). These categories could be based, for example, on the combination of the size of the project (a specific hectare threshold),

likely impacts (tonnage of waste or emissions) or location of projects in sensitive areas (wetlands). (Glasson and Therivel 2019, 86). These are typically spelled out in the ESIA legislation and regulations, as is the case in Mozambique described in Box 1. A case-by-case approach is bespoke and evaluates a project's potential risks against more flexible criteria. (Glasson and Therivel 2019, 86-88). Literature suggests that each approach has strengths and weaknesses. The threshold approach offers more certainty, and links review with foreseeable risks, but can be inflexible. The case-by-case approach offers more flexibility and precision but increases complexity, resource needs and, invariably, timelines. (Glasson and Therivel 2019, 87).

Box 1. Screening in Mozambique

In Mozambique, four categories of projects establish levels of review scrutiny at the screening stage. The 2015 Decree on Environmental Impact Assessment lists four categories of projects and requires the Ministry of Land, Environment and Rural Development (MITADER) to conduct project screening and project classification. (Mozambique 2015, Annex 1-4). MITADER assesses project complexity and foreseeable impact and then classifies the project according to four categories (A+, A, B or C), with A+ projects likely to have "irreversible" impacts and C minimal impacts. Assessment for A+ and A projects entails rigorous scrutiny whereas Category B projects are subjected to a Simplified Environmental Report and Category C need only comply with General Procedures of Good Practice in Environmental Management. (NCEA 2019).

Most national systems primarily screen projects with information provided through self-assessment by proponents; however, literature points to this as an important moment for public participation. Many national systems have developed forms or templates for screening requirements. In some jurisdictions, this is called a project report or environmental impact statement. (UNEP 2018, 31). Some national systems, including Kenya, Nigeria, and federal projects in Canada, incorporate public consultation from broader constituencies at this stage, including potentially affected communities and multiple government agencies. (UNEP 2018, 33-34). The ESF requires participa-

tion and stakeholder engagement "as early as possible in the project development process and in a timeframe that enables meaningful consultations with stakeholders on project design." (World Bank 2017, ESS10, paras. 6, 13). UNEP similarly highlights participation at the screening stage as an important good practice. (UNEP 2018, 34).

Literature suggests that effective screening can deliver environmental and social mitigation at a comparatively low cost. Research has shown that the screening phase, which is far less burdensome than the full scoping and ESIA phases, can catalyze important changes in project design regardless of whether an ESIA is triggered. (Glasson and Therivel 2019, 88-89). As described in Box 2, researchers in Denmark found that screening can further environmental and social sustainability goals. This example suggests that meaningful screening criteria can be an efficient way to influence project design even before triggering a full ESIA.

Box 2. Project Design Change Through Screening in Denmark

Researchers in Denmark documented how the screening phase can trigger significant changes in projects. Researchers at the Danish Centre for Environmental Assessment at Aalborg University analyzed approximately 100 screening decisions within the Danish system. They found that close to 45% of projects made changes during the screening phase, with both the proponents and EIA consultants recommending modifications. While most of these changes were described by the researchers as "minor," including project location, size and technologies deployed, the authors suggest the changes "will provide significant environmental benefits." (Nielsen et al 2005, 43-45). It appears that the screening phase can do more than determine whether a full ESIA is needed. Instead, the Danish researchers conclude that screening can be "a significant and efficient instrument for preventing pollution" in its own right. (Nielsen et al. 2005, 47).

The sequencing of screening and review within national systems can be a coordination challenge across multiple branches and levels of government. In China, for example, UNEP found that the 2016 update to the ESIA national system enabled sectoral licensing and environmental assessment to progress in parallel. (UNEP 2018, 21). A sectoral ministry is permitted to approve a license without an EIA while the national assessment agency assesses the project in parallel. A report from the International Institute for Sustainable Development (IISD) similarly notes a potential for conflicts between environmental and sectoral agencies, highlighting the “importance of having the same understanding of the role and importance of ESIA and related plans in the permitting process.” (IISD 2019, 20). UNEP suggests that getting the sequencing right—by connecting the ESIA process to permitting decisions—is important to promote the effectiveness of the national ESIA system. (UNEP 2018, 21).

Disagreements may occur at the screening phase. Disagreements in the approach to reviews are driven by competing values, for example tensions between development, alternatives, conservation and tradeoffs. Disagreements at this stage tend to focus on the definition and likelihood of significant impacts arising between the various stakeholders, including governments, proponents, affected communities and the broader public. (International Effectiveness Study 1996, 95). UNEP found that screening decisions, which establish the standard of review for the ESIA process, is the most frequently litigated ESIA function in the EU, Canada and the United States. (UNEP 2018, 31). Given that screening establishes the “rules of the game” for the rest of the EIA or ESIA process, transparent and reasoned decision-making at this stage is viewed as increasingly vital.

Glasson and Therivel suggest that there are growing concerns about “disproportionate” ESIA, and that screening is a key moment to prudently allocate national resources for ESIA. (Glasson and Therivel 2019, 286) The authors define disproportionate EIA as the concern that “the EIA process is taking too long, getting too complex and costing too much.” (Glasson and Therivel 2019, 286). They suggest that more effective screening and scoping, as explored below, can help to allocate review resources to projects with the greatest foreseeable risks. (Glasson and Therivel 2019, 287).

Scoping and Preliminary Assessment

Scoping and preliminary assessment concretely identify social and environmental risks that are foreseeable and most significant. In many contexts, scoping and preliminary assessment take the form of developing terms of reference for an ESIA report. Literature finds that scoping can clarify goals and ensure that resources spent on the analysis will be targeted on agreed priorities. (UNEP 2004, 47). This in turn helps ensure that the report will be narrowly focused and linked to decision-making needs. (UNEP 2018, 41-2). Scoping is mandatory in some jurisdictions (e.g. Netherlands, Canada), but not others (e.g. UK). (Glasson and Therivel 2019, 89). The ESF, through Environmental and Social Standard (ESS) 1, incorporates scoping as an element of ESIA good practice. (World Bank 2017, ESS1 Annex 1, para. 4).

The literature is split on the value of different approaches to scoping and preliminary assessment practice. As documented in Glasson and Therivel, scoping and preliminary assessment play a vital role as they are “often the first stage of negotiations and consultation between a [proponent] and other interested parties. It is an important step in EIA because it enables the limited resources of the EIA team to be allocated to best effect and prevents misunderstanding between parties.” (Glasson and Therivel 2019, 88). Others have questioned the utility of this step, arguing that scoping and preliminary assessment are often too broad, thereby failing to sufficiently focus the ESIA process and, as a result, amount to an unnecessary hurdle for projects. (IEMA 2011, 4; cited in Glasson and Therivel 2019).

Scoping and preliminary assessment can be an opportunity to strengthen horizontal and vertical coordination among relevant ministries. Some jurisdictions require that the competent authority coordinate with sectoral ministries during scoping and preliminary assessment. (UNEP 2018, 42). A 2017 United Nations Development Programme (UNDP) and SAIEA report recommends strengthening sectoral linkages throughout the ESIA process, including through a required “integration workshop” at the scoping and preliminary assessment phase. This workshop can bring together relevant sectoral ministries to ensure social, environmental and other concerns are integrated. (UNDP 2017, 20). SAIEA recommends this is an important strategy for effective integration of social

and environmental impacts, as explored further in Chapter 4.1.

Public participation at the scoping and preliminary assessment phase helps ensure public input prior to the ESIA report. Multiple national ESIA systems enable or require the participation of project-affected communities at the preliminary assessment phase. (UNEP 2004, 47). Community members should participate through institutionalized mechanisms, for example working groups and a series of engagements with the proponent. (Glasson and Therivel 2019, 88-89). This can help ensure that community-relevant impacts are incorporated into project planning and often provides opportunities to explore potential alternative design. (UNEP 2018, 42). Box 3 describes how this process is used at the scoping phase in South Africa.

Box 3. Alternative Project Design at the Scoping Phase in South Africa

South Africa's Department of Environmental Affairs and Tourism describes alternative project design as "one of the most critical elements of the environmental assessment process." (South Africa 2004). The South Africa guidance recommends that alternatives should be discussed at the earliest possible stage—including screening and scoping—so as to increase the likelihood of modifications or alternatives. The Department of Environmental Affairs identifies 11 possible alternatives including: (i) activity; (ii) location; (iii) process; (iv) demand; (v) scheduling; (vi) input; (vii) routing; (viii) site layout; (ix) scale; (x) design alternatives; as well as (xi) outright rejection of the proposal. (South Africa 2004, 2). The government, proponent and affected public must all play a role in developing alternative options, including at the scoping phase. (South Africa 2004, 9). The ultimate goal is "enhancing the environmental benefits of the proposed activity, and or through reducing or avoiding potentially significant negative impacts." (South Africa 2004, 4).

The ESIA Report and Management Plan

National systems allocate responsibilities for preparation of the ESIA report to different actors. UNEP notes that most systems require that ESIA reports be prepared by government-licensed consultants. (UNEP 2018, 43-44). The ways in which these consultants are licensed by government can be an important guarantee of their independence, since project proponents typically pay their report preparation fees. These dynamics will be explored in Chapter 4.3. The United States is an exception; there, government agencies are themselves often responsible for conducting EIA analysis and preparing the report. (UNEP 2018, 43).

National systems incorporate a variety of approaches to predicting impacts and recommending alternative and mitigation strategies. (Glasson and Therivel 2019, 114-5). Defining impacts is arguably the most technical aspect of the ESIA process, which Glasson and Therivel describe as a "black box" where scientific decisions are made, often without sufficient or meaningful participation. (Glasson and Therivel 2019, 143-4). National systems seek to incorporate alternative designs in different ways. Box 3 summarizes recommendations for alternative project design developed by South Africa's Department of Environmental Affairs and Tourism.

Literature recommends that national systems should typically require an Environmental and Social Management Plan (ESMP) or similar tool as a component of the assessment process. ESMPs, or Environmental Management Plans (EMPs) and Social Impact Management Plans (SIMP), essentially establish a project's risk management strategy and outline capacity building and community engagement elements. They are tools to ensure that risks and impacts identified in an ESIA link to ongoing monitoring and adaptive management of the project. (Glasson and Therivel 2019, 304). The ESMP summarizes likely project impacts, as detailed in the impact assessment, and proposes corresponding measures and adaptive management strategies to account for these impacts. (UNEP 2004, 55-6). Box 4 summarizes ESF guidance on effective ESMPs. A 2018 survey of agricultural investors conducted by the World Bank found that 70% of investors conducted ESIA's yet only half developed specific ESMPs; as a result, this appears to be a phase where more focus is warranted. (UNCTAD 2018). ESMPs will be further explored in Chapter 4.1.

Box 4. What does an Effective ESMP include?

The World Bank's ESS1 Guidance Note for Borrower countries provides an outline of the core elements of an ESMP. The Guidance Note describes the purpose of the ESMP as establishing mitigating, monitoring and regulatory activities necessary to eliminate, offset or reduce a project's social and environmental impacts. The note recommends that ESMPs include detailed information on i) mitigation, ii) monitoring, iii) capacity development and training, iv) implementation schedule and cost estimates and v) integration of the ESMP within project implementation structures. (World Bank 2018a, 22-24).

The World Bank's ESF requires Borrower countries to undertake ESMPs and other appropriate assessment mitigation measures. It memorializes those Borrower country commitments in an Environmental and Social Commitment Plan (ESCP), which forms part of the financing agreement between the World Bank and the Borrower country and is legally binding. The ESCP is a core feature of ESS1. (World Bank 2017, ESS1 paras. 15-17). The ESCP may incorporate the variety of social and environmental documents, including the ESMP, Environmental and Social Management Framework, Environmental and Social Impact Assessments (ESIA), Resettlement Policy Framework, Resettlement Action Plans, and Stakeholder Engagement Plans, and the timelines specified in those documents. (World Bank 2017, ESS10 paras. 13-18).

Review, Decision Making and Licensing

Review, decision-making and licensing are closely related. As detailed in Table 4, at the review phase, a review body established in accordance with the relevant legislation assesses the ESIA report following established criteria. During the decision-making and licensing phase, the national system's competent decision maker approves or rejects the recommendation from the review body and, as appropriate, grants environmental and social clearance to proceed with the project, which may come with certain implementation terms and conditions. This section will summa-

rize literature focused on review, decision making and licensing.

Literature points to varied good practices in review, decision-making and licensing conditions. Key institutional considerations at the review and decision-making phase include institutional mechanisms and criteria for review, authority for final decision making and appeal mechanisms. How systems incorporate licensing conditions as part of ongoing monitoring and adaptive management is emerging as a key element of effective national ESIA systems.

Decisions of whether and how to proceed with a project "present very complex choices among interests and values." (Dietz and Stern 2008, 7). ESIA decisions must account for both the technical dimensions of the project as well as the project's "political, social, cultural, and economic" dimensions. (Dietz and Stern 2008, 7-8). A decision about what constitutes a contextually appropriate environmental impact must inherently assess this decision in relation to the forecasted economic, social or other benefits. Accordingly, literature analyzes review, decision-making and licensing as both a technical process but also a process that raises questions of societal priorities and strategy. This section will focus primarily on the technical aspects of review and decision making.

National systems typically review ESIA reports in three different ways. Joseph, Gunton and Rutherford surveyed ESIA experts and practitioners involved in environmental assessment in Canada on effective models of review. (Joseph et al. 2015, 244-5). Joseph et al. and UNEP describe three common models of review. (Joseph et al. 2015, 244-5; UNEP 2018, 65-72).

- A review body made up of representatives from within and outside government (multi-stakeholder review);
- A review body made up of representatives from across relevant government agencies (inter-government review); or
- A review body of officials from the government department connected to the project or national ESIA agency (intra-agency review).

These bodies may be established to specifically review a project or serve as a standing body to review multiple projects. (Joseph et al. 2015, 244-5). Key questions associated with these institutional mechanisms include the "degree of independence from government, efficiency of the process, level of expertise involved,

authority and resources available, accountability to the public, and ‘siloining’ (or fragmentation) of information and decision-making processes across government.” (Joseph et al. 2015, 244). The expert survey by Joseph et al. found that respondents in Canada strongly preferred the multi-stakeholder review approach, with independence being a key element. (Joseph et al. 2015, 244). The UNEP review is less conclusive, instead highlighting how these different approaches work in particular contexts. (UNEP 2018, 66-69).

The approach to procedural and substantive review of reports also varies. Some countries require only procedural review of reports (i.e. was the process outlined in the ESIA legislation followed) whereas others require that the review body also assess the substance of the report (i.e. does the proposal adequately respond to the science and participant inputs). (UNEP 2018, 66). It appears that ESIA literature recommends both procedural and substantive assessment of the report findings. A substantive as well as procedural review can help address shortcomings in the report and incorporate specific legally binding conditions in the project approval license. (UNEP 2018, 66).

Participation of affected groups and the broader public at the review and final decision stage is viewed as essential. Public participation is inconsistent at this phase within and across countries. These dynamics will be explored in detail in Chapter 4.2.

Final decision-making authority varies across national systems, but is most effective when project approval conditions and requirements are clearly spelled out and decisions are publicly available. Again, the literature does not point to a single good practice when it comes to final decision making. Joseph et al. identify key criteria, including “ensuring that the EA process is democratically accountable while ensuring that decision-makers have sufficient expertise and are unbiased.” (Joseph et al 2015, 245). The Canadian experts the authors surveyed recommend that national systems incorporate an independent final decision-maker model, where an independent decision body is established by government. (Joseph et al. 2015, 245). This recommendation is not the most common practice, and in most national systems, final decision-

making authority rests with the lead agency, which then has fairly wide discretion to weigh the relevant approval criteria, if applicable, and either incorporate or disregard public comments or ESIA and EIA report findings. (UNEP 2018, 69).

Established criteria for final decision making appears to be a good practice. In general, experts appear to prefer that final decision making be made in accordance with established criteria or a checklist to help guide consistent application of regulations. The EC, for example, in 2017, developed a review checklist to help guide decision makers and encourage predictability of decisions. That process is described in Box 5. Joseph et al.’s survey of Canadian experts found a preference for final decision-making bodies being “heavily constrained by explicit and legally binding decision-making rules.” (Joseph et al. 2015, 246-7). Constraints on decision making can help reduce subjectivity, serve as a check on undue political, industry, or stakeholder pressure and drive uniform standards of project approval. Reducing such discretion arguably is a check on bias in decision makers. (Joseph et al. 2015, 247).

Adaptive Management

Adaptive management is viewed as a critical element of effective implementation of national systems for ESIA. Ongoing and adaptive management is often described as a weak element of national systems. (SAEIA 2020, 18). As the International Effectiveness Study noted in 1996, national EIA systems have typically been viewed as predictive—that is anticipating impacts prior to a project—as opposed to a systemic tool for ongoing management of environmental and social risks over project implementation. (International Effectiveness Study 1996, 126). The IAIA in 2005 devoted a special issue of its journal *Impact Assessment and Project Appraisal* to post-ESIA follow-up, and in 2007 released seventeen principles for follow-up, arguing that “EIA has little value unless follow-up is carried out.” (IAIA 2007, building on Marshall et al 2005). National systems are increasingly clarifying responsibilities and incorporating tools for effective management of impacts and enforcement of license conditions. (Joseph et al. 2015, 241).

Box 5. EC's Decision-Making Guidance

In 2017, the EC produced guidance on the preparation and review of environmental impact assessment reports. This guidance includes a checklist, described as a “flexible tool,” that serves to help proponents know exactly what will be assessed and help responsible institutions to assess ESIA in uniform ways. The checklist assesses seven dimensions of a proposed project: i) Project Description; ii) Description of the environment likely to be affected by the Project (including Baseline); iii) Description of the Project’s likely significant effects; iv) Alternatives; v) Description of Mitigation and Compensation Measures; vi) Description of Monitoring Measures; vii) Quality (presentation, Non-Technical Summary, and quality of experts). (EC 2017). An excerpt from Section 3 is below.

SECTION 3 DESCRIPTION OF THE LIKELY SIGNIFICANT EFFECTS OF THE PROJECT				
No.	Review Question	Relevant?	Adequately Addressed?	What further information is needed?
Impact Assessment Methods				
3.33	Have the methods used to predict the effects described and the reasons for their choice, any difficulties encountered, and uncertainties in the results been discussed?			
3.34	Where there is uncertainty about the precise details of the Project, and its impact on the environment/climate change have worst-case predictions been described?			
3.35	Where there have been difficulties in compiling the data needed to predict or evaluate effects, have these difficulties been acknowledged and their implications for the results been discussed?			
3.36	Has the basis for evaluating the significance or Importance of impacts been described clearly?			
3.37	Have the impacts been described on the basis that all Mitigation Measures proposed have been implemented i.e. have the residual impacts been described?			
3.38	Is the level of treatment of each effect appropriate to its importance for the Development Consent decision? Does the discussion focus on the key issues and avoid irrelevant or unnecessary information?			
3.39	Is appropriate emphasis given to the most sever, adverse effects of the Project with lesser emphasis given to less significant effects?			
Other Questions relevant to Description of Effects				
	Have, with a view to avoiding duplication of assessments, the available results of other relevant assessments under Union or national legislation, in preparing the environmental impact assessment report been taken into account? If so, how was this done?			

Literature increasingly identifies ESMPs and related strategies as key tools to strengthen adaptive management. IEMA has identified the need for stronger implementation of environmental and social management plans through measures like ESMPs. (IEMA 2016, 2). The 2020 SAEIA review of African ESIA laws, for example, states that the “lack of rigorous requirements and accountability for the preparation and implementation of EMPs is probably the area of EIA practice that is of greatest concern in the [Sub Saharan Africa] region.” (SAEIA 2020, 19). These concerns extend beyond Africa, and literature identifies ESMPs and SIMPs as essential for moving ESIA from a “box ticking” exercise to one that drives adaptive management that corresponds with the project life cycle. (Expert Interview June 4, 2020). The effective use of ESMPs will be further explored in more detail in Chapter 4.1.

Literature finds that adaptive management strategies should be based on the specific category of project and the national context. The IAIA seventeen principles for EIA follow-up recommend that “there is no single ‘right’ way” to design adaptive management in national systems, however several principles apply; for example, follow-up needs to be “coordinated, clear, with sufficient capacity and resources, adaptive and inclusive and participatory.” (IAIA 2007). While general, the IAIA principles do give specific recommendations for the implementation of effective follow-up mechanisms, including the need for effective coordination, a sound legal basis, strong capacity, and meaningful public and third-party participation. (IAIA 2007).

Literature highlights the need for a stronger legal basis for adaptive management. Some literature suggests EIA was historically viewed as a project assessment tool as opposed to an ongoing management strategy. At best, this vision highlighted potential impacts and developed strategies to address them. At worst, it was viewed as a bureaucratic hurdle to be overcome and, too often, forgotten. As this vision has shifted, legal frameworks for adaptive management have lagged. In ECA, for example, the World Bank has found weak or ambiguous criteria and requirements for EIA follow-up. (World Bank 2002, 24). UNEP has similarly found that “legal requirements related to follow-up measures” are a constraint to effective EIA follow-up. (UNEP 2018, 73). The United Nations Conference on Trade and Development (UNCTAD) and the World Bank suggest that project approval must be viewed not “as blanket licenses to

operate, but seen as conditional on specifications of required mitigation, offsets, monitoring, and reporting requirements to keep authorization current.” (UNCTAD 2018). The ESF embraces an adaptive management approach by requiring Borrower countries to update the ESCP based on unforeseen circumstances or changes in project implementation. (World Bank 2017, Policy, para. 48). Importantly, the ESF requires that any changes be reflected through binding modifications of the ESCP and the project’s broader management tools. (World Bank 2017, Policy, para. 48).

The regulator, project proponent, the public and affected communities should have roles in ongoing management. (Morrison-Saunders et al. 2003, 46). Specific ongoing management conditions should be incorporated into the ESIA license, which should create legally binding commitments. (NCEA 2015, 40-41). Knowledge and participation from communities and non-governmental organizations (NGOs) is important for successful implementation and follow-up. (Morrison-Saunders et al. 2003, 54).

Follow-up, Monitoring and Auditing

Follow-up, monitoring and auditing of license compliance are identified as shortcomings of national systems for ESIA. The regulator should bear the primary responsibility for follow-up and ensuring effective monitoring and auditing is carried out, but the public and proponent have key roles to play. (IAIA 2007). Coordination among different government bodies as well as levels of government (e.g., federal and regional) is vital, and multi-disciplinary teams or working groups can be an effective strategy. (Morrison-Saunders et al. 2003, 46). In India, the responsible authority has the ability to establish a multisectoral environmental monitoring committee when impacts are likely significant. (UNEP 2018, 74-5). UNEP has found that coordination between relevant government agencies is a constraint to effective monitoring, citing an example of permitting decisions not being shared with all relevant agencies. (UNEP 2018, 73).

Effective monitoring, management and auditing should evolve over the project life cycle. Monitoring should feed into program implementation and the social and environmental management plan should evolve with the project. (UNEP 2018, 79). As described in the previous section, adaptive management is a core principle of social impact assessment and should evolve over

time. (Vanclay 2003a, 6). Unfortunately, this is rarely the case with, for example, World Bank and UNCTAD finding that monitoring of agricultural investments typically “falls well short” of what is needed. (UNCTAD 2018). Box 6 summarizes key monitoring recommendations from a World Bank and UNCTAD publication documenting good practices in agricultural projects.

Box 6. Good Practice in Government Monitoring of Agricultural Projects

The UNCTAD–World Bank Knowledge Into Action Note Series recommends good practice for government monitoring of agricultural investments, including aspects that connect to ESIA implementation. Drawing on practices from the World Bank, the FAO and the International Fund for Agricultural Development (IFAD) the Note recommends good practices, including:

- **Set clear reporting and monitoring requirements.** Reporting and monitoring requirements should be included in the investment contract as a means of contractual enforcement, including potential sanctions for noncompliance. They should include targets for key impacts of the project on sustainable development, such as land use, job creation, out grower schemes, community development agreements, and social and environmental impacts. Expected benefits to the host country and communities need to be enshrined in the contract and then monitored to ensure delivery.
- **Develop monitoring capacity and systems.** Consideration should be given to developing appropriate monitoring systems and templates as well as the capacity of officials within departments, ministries, and/or agencies with appropriate mandates such as the environment, land management, and community and rural development, at all levels in the administration. This could involve setting aside a percentage of revenues from the project for funding monitoring activities. Capacity includes ensuring that the units responsible are able to access sufficient additional resources as new investment approvals are granted.
- **Conduct impartial physical confirmation.** Where appropriate, officials should undertake physical inspections through site visits and record outcomes and observations using appropriate systems of data collection and field reporting.
- **Grievance monitoring.** Support the establishment of a formal grievance redress procedure, and monitor the level and resolution of grievances, facilitating dispute resolution where appropriate.
- **Ensure transparency.** Consider what information investors could make publicly available in order to improve public monitoring of investments. (UNCTAD 2018).

Literature identifies transparency and public participation as foundational elements of effective monitoring and auditing. Indeed, the IAIA 2007 principles recommend that “All stakeholders have a right to feedback on the EIA process. Actions and decisions resulting from EIA follow-up should be fair, transparent and communicated directly to stakeholders.” (IAIA 2007, 2). Joseph et al.’s survey of good practice in Canada similarly recommends that monitoring should be independent and publicly disclose its findings.

(Joseph et al. 2015, 241). Recent experience under Canada’s *Impact Assessment Act* suggests that “follow-up teams” can be an important strategy to strengthen participation and catalyze continual improvements in the ESIA process. (IAIA 2020).

Multiple factors constrain effective implementation of follow-up, auditing and monitoring. Morrison-Saunders et al. have documented multiple instances—from Portugal and the Netherlands, to Nigeria and Malaysia—where legal reforms seeking to strengthen monitoring requirements did not translate to more effective monitoring. (Morrison-Saunders et al 2003, 45). The World Bank has similarly found that while environmental management plans were used within the national ESIA systems in 95% of countries they analyzed in Latin America, “most countries rarely monitor the action’s impacts after the corresponding license or permit has been issued.” (Acerbi et al. 2014, 4-5). The authors suggest that this is primarily due to capacity and resources. A 2020 report from the Inter-American Development Bank (IDB) and World Justice Project (WJP) on Environmental Governance Indicators for Latin America and the Caribbean found that despite progress in legal reform, inspections, monitoring and evaluation are among the weakest elements of environmental rule of law. (IDB & WJP, 2020, Figure 2). In Southeast Asia, a 2018 comparative review of national systems found that while many countries’ legislation included requirements for follow-up, implementation and revi-

sion of mitigation plans was a significant shortcoming. (Swangjang 2018, 39). As national systems focus more on effective follow-up, these systems will need more capacity and resources. (Morrison-Saunders et al 2003, 50). UNEP has found that the capacity of proponents and implementing agencies is a key criterion in avoiding adverse social and environmental impacts. (UNEP 2018, viii). Requiring a “financial guarantee” for budget to be allocated for the implementation of mitigation and follow-up measures can strengthen implementation, as discussed in Chapter 3.3 below. (UNEP 2018, 79). UNEP and NCEA have identified the use of this approach in several jurisdictions.

Third-party or external auditing and monitoring can strengthen national ESIA system implementation. Third-party monitoring typically refers to one of two activities. First, the proponent may outsource monitoring responsibilities to an external party that will monitor environmental and social aspects of project implementation. Alternatively, third-party monitoring can also refer to autonomous monitoring undertaken by civil society and the broader public in a way that complements existing monitoring by the proponent, financial institution, or government. UNEP states that third-party monitoring that involves civil society and the public can be crucial for effective implementation. (UNEP 2018, 78). UNEP recommends that institutionalized structures to follow-up, monitoring and auditing—for example a permanent environmental monitoring board incorporating Indigenous Peoples’ representatives—can improve participation and effectiveness over time. (UNEP 2018, 78). With support from the United Kingdom’s development agency, the International Institute for Environment and Development has produced useful guidance for communities and NGOs for monitoring agricultural and land-based investments. (Blackmore 2015). Box 7 describes some of the World Bank’s experience with third-party monitoring.

Box 7. Third-Party Monitoring and the ESF

The World Bank’s ESF explores the use of third-party monitoring to strengthen implementation of environmental and social management requirements.

The World Bank states that the goal of third-party monitoring (TPM) “is to provide an unbiased perspective on the issue and status, and to make recommendations for improvement, where relevant.” The ESF envisions TPM in two circumstances: i) where the World Bank contracts the third-party monitor directly to supervise project implementation on behalf of the World Bank and ii) where a government counterpart or the World Bank supports a third-party monitor to supplement their own capacity for monitoring. In both instances, the World Bank and the Borrower country can supplement social and environmental expertise and build important partnerships with civil society and community groups. These approaches are particularly relevant in high risk or contentious projects, however, they are not a substitute for effective monitoring by the government and proponent.

The World Bank ESF Guidance Note on third-party monitoring identifies strengths of TPM to include i) independent assessment and verification of information, ii) capacity building and technical capacity and iii) building trust with project-affected communities. The note highlights challenges and limitations to include i) increased costs of third-party monitoring, ii) potential for bias amongst third-party monitors and iii) unrealistic expectations of third-party monitors. (World Bank 2018b).

3.3. Effective Financing of National System for ESIA Functions

Funding mechanisms influence the effectiveness of national systems for ESIA. This section explores common models of a national system for ESIA financing and assesses literature regarding effective financing strategies. Recent literature is beginning to explore how ensuring sufficient, transparent and accountable financing for ESIA can strengthen overall system effectiveness—from scoping and assessment through to project implementation and monitoring.

Although the ESIA literature is extensive, it has focused only to a limited extent on effective models for financing system functions. Sadler's seminal 1996 study, for example, discusses financing ESIA system functions in the context of a recommendation around cost recovery for near-term trends. (Sadler 1996, 230). And the 2018 UNEP study talks about funding ESIA functions in particular areas, for example around funding activities detailed in license conditions, but does not situate ESIA in a country's broader public financial management system. (UNEP 2018, 79).

The Netherlands Commission for Environmental Assessment has produced the most comprehensive guide to ESIA funding. NCEA's guide to Funding Governmental Tasks in ESIA and Environmental Approval, produced in 2014, remains an important source of good practice. The guide analyzes principles for cost recovery, lays out government resource needs associated with each ESIA function and provides case studies from The Netherlands, Colombia, France, Ghana and Georgia. (NCEA 2015).

The NCEA guidance assesses principles and approaches and argues that system design must be context specific. The application of public financing principles boils down to the question of: "who should bear the burden of paying for environmental safeguards and pollution control measures?" (NCEA 2015, 6). The NCEA publication explores multiple models, including cost recovery (fees are charged to the proponent for operational, financial and environmental costs), the polluter pays principle (the company should pay for preventing and controlling social or environmental impact), the beneficiary pays principle (person using the resource should pay), the precautionary principle (with uncertain impacts the proponent is required to assess and compensate impacts on a regular basis) and the integrity principle (that government and regulators should not be funded directly by proponents). (NCEA 2015, 7-13). The guide outlines criteria for developing financing arrangements but stops short of an ideal good practice. Identified criteria include: adequacy, sustainability, and flexibility of the funding source; administrative burden; political and social viability; transparency and accountability; autonomy of the implementing agency; and the community profile. (NCEA 2015, 13-14). The NCEA study then provides case studies and practical experiences of how these criteria have been implemented in particular contexts.

Some literature warns that contradictions and risks of cooptation are inherent in many national ESIA system funding models. Because the proponent is often responsible for both commissioning and funding the environmental and social assessment, there are both real and perceived risks of cooptation. (Vanclay 2020, 129). The NCEA study similarly notes that affording proponents discretion to define scoping and impacts can result in findings that are "incomplete, inaccurate or biased" and too often fail to identify meaningful alternatives. (NCEA 2015, 33-36). The NCEA study suggests that core ESIA functions can be led by proponents so long as competent ESIA authorities implement effective safeguards and supervision. (NCEA 2015, 34). The certification of ESIA consultants by the agency responsible for national ESIA is a common approach to exercising this supervision. (NCEA 2015). This will be explored in Chapter 4.3. Policymakers and academics are now asking whether national systems should rethink how the process is conducted, suggesting that "it would seem better if the regulator would engage a consultant to assess impacts rather than rely on a consultant directly engaged by the proponent." (Vanclay 2020, 129).

Box 8. Funding Models Influence Independence and Effectiveness

Experimental evaluation in India shows independence of funding streams can significantly impact outcomes. Experimental research and randomized evaluation have generally not focused significantly on institutional arrangements for national ESIA systems. A notable exception is a study conducted by Esther Duflo and colleagues into funding mechanisms for third-party auditors in Gujarat, India. Most national systems that use third-party auditing to monitor environmental compliance allow for the proponent to select and pay the auditor. Using an experimental design, Duflo and colleagues tested four strategies, including paying auditors from a central pool as opposed to payment by the proponents, randomizing auditor assignments, monitoring of audits and the introduction of incentive-based payments for accuracy. (Duflo et al. 2013, 3). The combination of these four strategies were found to result in dramatic improvements in auditing performance including more auditor accuracy and, ultimately, less pollution. (Duflo et al. 2013).

Literature suggests that funding for essential ESIA implementation functions, such as adaptive management, monitoring and environmental restoration, should be guaranteed. While broad public financial management systems of ESIA are not well covered, literature does appear to suggest that core functions for management, monitoring and restoration may benefit from more defined and transparent funding commitments. The 2018 UNEP report recommends that license conditions, including the ESMP, should specifically spell out financial arrangements to ensure the funding of mitigation and other commitments. (UNEP 2018, 78). The UNEP study cites the positive example of Mongolia, where project proponents must deposit half of the implementation costs for the EMP in a designated bank account to help ensure availability of funds. (UNEP 2018, 79). Lebanon's ESIA law similarly establishes an Environmental Fund that should be used to fund follow-up activities; UNEP's review found that this provision was unimplemented as of 2018. (UNEP 2018, 80). The 2015 NCEA study explores a number of financing arrangements, including environmental funds, to finance core environmental tasks, and environmental guarantees and reclamation funds to restore project sites. (NCEA 2015, 77-82).



Chapter 4

Chapter 4. Select Design Features of National Systems for ESIA

This chapter reviews literature focused on select design features of national ESIA systems as identified by the World Bank task team. Based on experiences working with client countries to strengthen national legal frameworks on ESIA, and in anticipation of Borrower countries' interest in using their national systems under the World Bank ESF, the World Bank task team identified specific research questions relating to the design of national ESIA systems. This chapter assesses the state of the literature on how national systems for ESIA:

- effectively account for and manage social impacts, not just environmental ones;
- advance effective participation;
- strengthen competent, independent and accountable review and consideration of projects;
- incorporate political economy analysis to strengthen effectiveness;
- incorporate the mitigation hierarchy;
- assess and manage transboundary impacts; and
- assess and manage emerging risks and impacts.

4.1. Accounting for Social Impacts in National Systems for ESIA

Strategies to incorporate SIA into EIA processes are increasingly well documented and assessed. Many national EIA systems incorporate social impacts, and there is significant literature by EIA practitioners discussing strategies to incorporate social risks into national systems. A 2019-2020 review of African EIA systems, for example, found that over half of the twenty-six African countries reviewed defined the “environment” as encompassing natural, social and cultural environments. (DBSA and SAEIA 2021, Table 1.2). The 2014 EC EIA Directive similarly incorporates assessment and management of biophysical factors as well as “population and human health; ... material assets, cultural heritage and the landscape,” among other elements. (EC 2014, Article 3). Similar literature exists among SIA practitioners. This literature explores the ways in which social impacts can be assessed and managed through EIA. There are also numerous critiques of EIA systems that are described as overly focused on regulatory approval. This literature offers recommendations for amended and alternative strategies to better account for and manage social risk.

This section begins with an overview of SIA literature as it relates to EIA and then turns to the ways in which national systems are accounting for and monitoring social impacts.

Perspectives of Social Impact Assessment

The field of social impact assessment has grown alongside and within EIA, but there are some key differences. While SIA, like EIA, emerged primarily as a regulatory tool, it now focuses primarily on ongoing “process of managing a project’s social issues.” (Vanclay 2020, 126). Academics and practitioners have defined SIA as an “iterative, community-focused, and participatory process that uses diverse forms of data and information to produce values-based assessments and strategies to address the opportunities, risks, and uncertainties associated with significant development projects and processes.” (Parsons et al. 2018, 115). SIA is characterized as an adaptive tool used by projects to manage implementation, placing significant emphasis on participation and the agency of communities to determine project direction. (Arce-Gomez et al. 2015, 87).

The 2015 Guidance Note from the IAIA helpfully summarizes the state of the social impact assessment field. The IAIA Guidance Note for assessing and managing the social impacts of projects remains the most comprehensive international analysis and guidance on social impact assessment. The Guidance Note relies on many years of practice. (IAIA Guidance Note 2015). In the intervening years, additional literature has emerged around strategies to understand and account for social impacts, but this Guidance Note likely remains the most authoritative piece of SIA literature.

Literature emphasizes the need for a comprehensive understanding of types of communities and populations that are likely to be affected by a project, including vulnerable or disadvantaged groups within the community. The IAIA Guidance Note recommends the development of a “community profile” (IAIA Guidance Note 2015, 8). Such a community profile is similar to the requirements for stakeholder identification and analysis included in the World Bank’s ESS10 on

stakeholder engagement. (World Bank 2017, ESS10, para. 8). The IAIA Guidance Note further recommends the “assessment of the differing needs, interests, values and aspirations of the various subgroups of the affected communities including a gender analysis.” (IAIA Guidance Note 2015, 8). This approach is again consistent with the approach taken by ESS10, which states that the “Borrower will identify those project-affected parties (individuals or groups) who, because of their particular circumstances, may be disadvantaged or vulnerable.” (World Bank 2017, ESS10, para. 11).

This focus on vulnerable and disadvantage groups can yield insights into project-related impacts and concerns specific to those populations. The ESF defines disadvantaged or vulnerable populations broadly as “those who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project’s benefits.” (World Bank 2017, Glossary). In the context of the ESF, the World Bank identifies a range of potentially relevant groups, populations and topics that warrant specific attention, including gender, sexual exploitation and harassment, persons living with disabilities, sexual orientation and gender identity, discrimination and racial discrimination. (World Bank 2020c). ESIA systems are increasingly called upon to assess these kinds of impacts as well, including child labor and modern slavery. (World Bank 2018c).

A broad range of ESIA system literature suggests that national systems for ESIA should account for gender impacts. (UNWOMEN 2014). UNWOMEN recommends bringing a gender lens to impact assessment, ensuring that women can meaningfully shape decision making. (UNWOMEN 2014, 5). UNEP released Guidelines for Assimilating Gender into Integrated Environment Assessments in 2017. (UNEP 2017). These Guidelines provide concrete recommendations to incorporate gender into core functions of the ESIA process, including scoping, assessment, participation and monitoring. A 2017 UNDP and SAIEA study similarly describes the need to incorporate gender analysis and provides concrete recommendations across ESIA system functions. (UNDP 2017, 85-87). Gender, however, did not feature in the 2018 UNEP EIA review. (UNEP 2018). Only through a specific focus on gender will an ESIA system be able to meaningfully account for the ongoing unequal control of assets, resources and access between men and women.

Literature also recommends that national systems for ESIA focus on potential social and environmental impacts on Indigenous Peoples. The ESF, for example, requires World Bank Borrower countries to ensure that Indigenous Peoples, as well as Sub-Saharan African Historically Underserved Traditional Local Communities, are fully consulted about, and have the opportunity to actively participate in, project design and the determination of project implementation arrangements, including the opportunity to express free, prior and informed consent where required. (World Bank 2017, ESS7, paras. 11, 24). The 2017 UNDP and SAIEA similarly states that national ESIA systems specifically account for the perspectives of, and disparate impacts on, Indigenous groups. (UNDP 2017). Despite this increasing recognition of a need to focus on Indigenous Peoples, the 2018 UNEP review found that national legislation for ESIA systems still rarely included specific provisions for Indigenous groups. (UNEP 2018, 62).

Literature on ESIA systems also recommends the assessment of potential impacts on health. The 2017 UNDP and SAIEA study documents the links between environmental and social risks. The study states that the World Health Organization, in 2012, found that one out of four global deaths was connected to living or working in an unhealthy environment. (UNDP 2017, 1). As the complex interlinkages between environmental, social and health factors have become better documented, ESIA literature has placed greater emphasis on ensuring effective assessment of health factors. (UNDP 2017) The 2018 UNEP review states that national systems increasingly require analysis of impacts on human health. (UNEP 2018, 45-47; 49).

Based on this assessment of the characteristics and patterns of vulnerability, projects should, where possible, provide specific support to vulnerable groups. As will be described in Chapter 4.2, to ensure their meaningful participation, disadvantaged or vulnerable groups require capacity building, facilitation and independent support. The ESF requires such strategies and identifies the need to provide support that removes obstacles to meaningful participation for disadvantaged or vulnerable populations. (World Bank 2017, ESS10, para. 16).

SIA literature notes that social impacts often occur at different phases of the project life cycle than environmental impacts. National EIA systems typically rely

on a regulatory licensing cycle extending from scoping to monitoring and, ultimately, closure. Social impacts, however, may occur well beyond this regulatory cycle. For example, the IAIA Guidance Note describes how social impacts may occur before a project begins and the ESIA requirement is triggered. While an ESIA approach might seek to predict and monitor impacts from the start of extraction throughout the life cycle, social impacts may begin showing up even as rumors of a potential project begin: stress and anxiety could emerge or speculative land grabbing could start. (IAIA Guidance Note 2015, 2). The IAIA Guidance Note distinguishes SIA from ESIA by arguing that SIA necessarily focuses on the “active management of social issues from the very beginning of a project long before regulatory approval is needed.” (IAIA Guidance Note 2015, 4).

Social impact assessment literature critiques traditional EIA processes for being too focused on predicting as opposed to managing impacts. The IAIA Guidance Note argues that SIA should be firmly focused on the ongoing management of impacts. (IAIA Guidance Note 2015, 1). While ESIA literature typically agrees that ongoing management is essential, this perspective appears to have greater emphasis within specialized SIA literature. National ESIA systems are critiqued for their emphasis on the ex-ante investigation and mitigation of impacts as opposed to building an ongoing platform for implementation and dialogue. Social impact assessment literature, instead, embraces a broad understanding of how SIA can contribute to more effective projects across the project life cycle, as visualized in Figure 5, below.

The IAIA Guidance Note visualizes the phases of SIA. The recommended approach diverges from the UNEP visualization of EIA incorporated in Chapter 3,

Figure 4 in a few ways. SIA places greater emphasis on pre-screening engagement by introducing an identification and exploration step. The incorporation of “options appraisal” seems to place greater emphasis on a range of potential project designs as opposed to the EIA visualization, which focuses on a particular project. (IAIA Guidance Note 2015, 6). Finally, the SIA figure specifically highlights the need to integrate analysis and feedback at all phases of a project, from identification through to closure. The EIA visualization might be characterized as more linear and procedural.

SIA literature places greater emphasis on human rights, voice and power than EIA literature. The UNGPs

Figure 4. Phases of Social Impact Assessment



Source: IAIA Guidance Note (2015), 6.

which were finalized in 2011, describe the responsibilities of states and business enterprises to uphold human rights and are an important milestone for SIA practitioners. They affirm that social, environmental, and human rights impacts are intertwined. (United Nations 2011). The UNGPs have been described as the “single most significant recent change” in the field of

social impact assessment over the last decades. (Vanclay 2020, 126). The 2015 IAIA Guidance Note states that it is now good practice for all SIA processes to incorporate human rights analysis, unless a separate human rights impact analysis is conducted. (IAIA Guidance Note 2015, 14-5).

SIA practitioners view Free, Prior, and Informed Consent (FPIC) as key to effective ESIA processes, particularly for Indigenous communities. FPIC is a concept grounded in a legal right to self-determination for Indigenous Peoples, and social practitioners have considered whether this right can and should be extended beyond Indigenous communities to the ways projects engage with *all* affected groups and peoples. (IAIA Guidance Note 2015, 16). The ESF requires Borrower countries to obtain FPIC of the affected Indigenous Peoples and Sub-Saharan African Historically Underserved Traditional Local Communities for projects with particularly adverse impacts (adverse impacts on land and natural resources; cause relocation or have significant impacts on cultural heritage) and does not therefore require it for all projects. (World Bank 2017, ESS7, paras. 24-33). Many of these potential impacts and attendant approaches to management suggest that SIA perspectives are helping to catalyze the evolution of good practice around ESIA more generally.

SIA literature increasingly views proponents and communities as essential actors, with international institutions and national regulators playing a facilitative role. SIA should be integrated as a “core part of the corporate culture and the workplace culture of projects, and just like safety, should be everyone’s business.” (IAIA Guidance Note 2015, 5). Development banks and private sector actors may have their own ESIA standards alongside of the national regulatory system and multiple requirements or standards may apply within a single project. (UNEP 2004, 29). For example, a project with multiple sources of international finance might have to account for different standards: the company may have their own standards, and the national ESIA system may have another. The World Bank’s ESF accounts for this complexity through the application of the Common Approach introduced in Chapter 3. (World Bank 2017, Policy, para. 9). In light of multiple standards, the literature suggests there is a need for coherence and keeping project-affected people at the center of the process.

SIA literature also includes a focus on the proponent’s

“social license to operate” within countries and communities. A social license to operate is defined as “level of acceptance or approval of the activities of an organization by its stakeholders, especially local impacted communities.” (IAIA Guidance Note 2015, v). SIA practitioners increasingly explore strategies to deepen their engagement with and responsibility to affected communities. (Glasson and Therivel 2019, 263). In this context, SIA practitioners are engaging multiple sites of decision-making, often beyond the national ESIA system. Ultimately SIA literature appears to be moving SIA from its origins as a regulatory tool alongside traditional EIA to a process whereby “communities need to have more autonomy and decision-making power, including the ability to determine their own future.” (Vanclay 2020, 128). Such a vision of inclusive development reaches beyond that of traditionally national systems for ESIA, at least as initially conceived.

Assessing Social Impacts within National ESIA systems

Despite some substantive and strategic differences, many national ESIA systems seek to incorporate social issues within the ESIA process. These efforts are often informed by literature focused on EIA, ESIA and SIA. This section of the review identifies trends and good practice for incorporating the review and management of social issues into national ESIA systems.

Environmental and social impacts are intertwined, but responding to social impacts may require broader action. Many studies and policies highlight the interconnected nature of social and environmental impacts. The IAIA Guidance Note describes social impacts as “almost anything ... so long as it is valued by or important to a specific group of people.” (IAIA Guidance Note 2015, 2). This certainly includes social impacts related to environmental changes, for example health, well-being or livelihoods. (UNEP 2018, 4). However, social impacts can also be much broader, for example a culture, spiritual or political system or hopes and fears. The IFC Performance Standards adopt an interrelated approach to environmental and social assessment, focusing on labor, working conditions and health as well as on Indigenous Peoples, practices and cultural heritage. (IFC 2012). The ESF takes a similar approach. (World Bank 2017). Land-related impacts, as explored in Box 9, present complex social and environmental issues.

Box 9. Land Acquisition Under the World Bank ESF

The World Bank's ESS5 incorporates specific requirements for Land Acquisition, Restrictions on Land Use and Involuntary Resettlement. Land acquisitions are described as among the greatest environmental, social or governance risk factors associated with investment projects. The ESF states that unmitigated physical or economic displacement can lead to "severe economic, social and environmental risks." (World Bank 2017, ESS5, para. 2). ESS5 requires the Borrower to demonstrate that "involuntary land acquisition or restrictions on land use are limited to direct project requirements for clearly specified project purposes within a clearly specified period of time." (World Bank 2017, ESS5, para. 11). Borrowers must also consider alternative project designs that avoid or minimize land acquisition and pay particular attention to gender and poverty impacts. When acquisition or restrictions on use cannot be avoided, the Borrower must offer affected persons "compensation at replacement cost, and other assistance as may be necessary to help them improve or at least restore their standards of living or livelihoods." (World Bank 2017, ESS5, para. 12).

Many national systems for ESIA seek to analyze and manage social impacts. EIA regimes in Europe and the United States, for example, have evolved from an environmental focus in the 1980s to the assessment of social factors and disparate impacts in recent decades. In Europe, the regime includes analysis of landscape impacts; in the U.S. it includes a focus on environmental justice and cultural heritage. (Glasson and Therivel 2019, 260). In 2017, UNDP and SAIEA analyzed Sub Saharan African ESIA systems and found that forty-four countries in Sub Saharan Africa had dedicated ESIA or EIA laws with 27 countries including social impacts in the scope of their ESIA or EIA law. (UNDP 2017, 11). Some social impact literature questions whether a process rooted in existing EIA regulatory procedures can effectively manage social impacts on its own.

Literature suggests that effective institutional coordination is essential to identifying and managing social

impacts within national systems for ESIA. The 2017 UNDP and SAIEA study found numerous challenges with coordination. The review suggests that while two-thirds of Sub Saharan African countries incorporate social impacts into their ESIA systems, implementation mechanisms fail to "include social and/or health specialists on their review teams and the levels of cooperation with other ministries such as health and gender are generally low." (UNDP 2017, 18). The study provides recommendations for improving institutional coordination including:

- Create or activate inter-ministerial committees for the environment;
- Require EIA, SIA and ESIA consultants to have joint meetings with environment and social ministries at the outset as opposed to one-on-one meetings; and
- Establish mechanisms for joint monitoring and supervision activities with health and social ministries.

The UNDP study also recommends steps that consultants, proponents, civil society and affected communities can take to strengthen coordination. (UNDP 2017). The European Public Health Association and the IAIA are in the process of developing guidance for practitioners and stakeholders practicing in the European Union to ensure consistent coverage of human health in European ESIA. (EPHA and IAIA 2019). This draft document provides guidance for each stage of the ESIA system.

More effective coordination among external actors might also strengthen national systems for ESIA. One of the experts interviewed suggested that a lack of coordination between social and environmental practice groups within government and multilateral development banks could be a constraint on effective national integration. (Expert interview, June 9, 2020). This expert cited their recent experience in several African countries where development partners did not always appear to internally coordinate their own assessment support, with social and environmental sectors pursuing their own assessment and capacity building strategies. (Expert interview, June 9, 2020).

With environmental agencies typically playing leading roles in ESIA processes, literature finds that acquiring social expertise is a key challenge. Apart from collaboration and coordination, as described above, the UNDP and SAIEA study also identifies technical expertise as a key constraint in the Sub-Saharan African context.

(UNDP 2017, 18-19). The study provides recommendations for strengthening capacity, including:

- Integrate social health experts into the agencies responsible for approval and monitoring of ESIA (which are typically environmental ministries); and
- Establish specific multi-disciplinary review teams for the major projects.

The UNDP study recommends steps that consultants, proponents, civil society and affected communities can take to strengthen implementation capacity within national systems. (UNDP 2017). A recent interview with staff at SAIEA revealed that this remains a key recommendation from their perspective. SAIEA experts recommended that national ESIA systems utilize a multi-disciplinary technical committee to oversee the ESIA process in an effort to ensure sufficient social (and other) capacity on the oversight and review team. (Expert Interview, June 9, 2020).

Recommendations for Improving Assessment of Social Impacts

The literature suggests that effective incorporation of social impact assessment tools requires at least three elements: a broad consideration of relevant impacts, a process to assess and monitor those impacts, and institutional coordination. This sub-section briefly explores each.

National ESIA systems should look broadly at relevant project-related impacts. Social practitioners are concerned with a range of impacts that are broader than traditional environmental impacts.. (EIA 2014, cited in Glasson and Therivel 2019, 260).

An effective process for ongoing adaptive management is a key strategy for managing social impacts. Literature suggests that expanded tools to supervise and monitor social and environmental impacts might strengthen national ESIA system effectiveness. SIA practitioners are exploring a range of tools that sit

within and alongside traditional national EIA regulatory systems, including SIMPs, ESMPs and ESCPs, all tools introduced in Chapter 3. The IFC and World Bank use of ESMPs and ESCPs is an influential example of this approach, and several national systems are embracing these tools. South Africa introduced requirements for Social and Labour Plans in 2002 and Australia introduced requirements of Social Impact Management Plans in Queensland (Franks and Vanclay 2013, 43). In 2017, New South Wales in Australia developed guidelines for SIA in significant mining, petroleum and extractive industry development, which is explored in Box 10 and Figure 6. (Parsons et al. 2018, 114). A key element of an effective and durable management or commitment plan is supporting affected communities in negotiation and development. The IAIA Guidance Note states that “No agreement could be deemed to have been made in good faith if the local community did not have competent independent professional advice.” (IAIA Guidance Note 2015, 57).

Coordination between environmental and social impact assessments is necessary to expand effectiveness. More coordination across institutions may strengthen assessment and mitigation. Literature seems to suggest that national systems could play a more productive role in strengthening how international and national standards and instruments apply in particular contexts and with particular investments. Ribot has written about how decentralized decision making and increasing forums for decision making around natural resources has not always led to more accountable and participatory processes. More requirements and participation do not necessarily lead to better and more participatory outcomes. (Ribot 2004, 18-24). In the context of evolving implementation of national systems alongside industry and global standards for companies to know, show and address environmental and social impacts, national systems can be more effective in coordinating multiple standards and processes into a participatory and transparent structure.

Box 10. Integrating Social Impact Assessment into Regulatory EIA in Australia

As the field of social impact assessment has grown, there have been few attempts to integrate core techniques into national regulatory structures. Several states and territories in Australia have sought to better account for social impacts over a project life cycle through the implementation of SIMPs. Franks and Vanclay have defined SIMPs as a set of assessment, management and monitoring tools that seek to “identify the nature and scope of the social impacts that might occur during implementation and to proactively respond to change across the lifecycle of developments.” (Franks and Vanclay 2013).

In 2008, the State of Queensland became the first territory to require a SIMP in addition to the traditional EIA for all mining and petroleum projects.

SIMPs were introduced into the TOR for EIAs of “environmentally significant” projects and institutional changes within state government to better account for ongoing assessment and management of social impacts. (Franks and Vanclay 2013, 44). The policy put in place a participatory social process, formalizing a partnership between regional and local government as well as community leadership. (Franks and Vanclay 2013, 44). A change in state government repealed these guidelines in 2012 only to see them adapted and reissued in 2013 and updated in 2018. (Parsons et al. 2018, 115). These guidelines and subsequent practice were integrated into developments planned in the Galilee and Surat Basins. (Parsons 2018, 115).

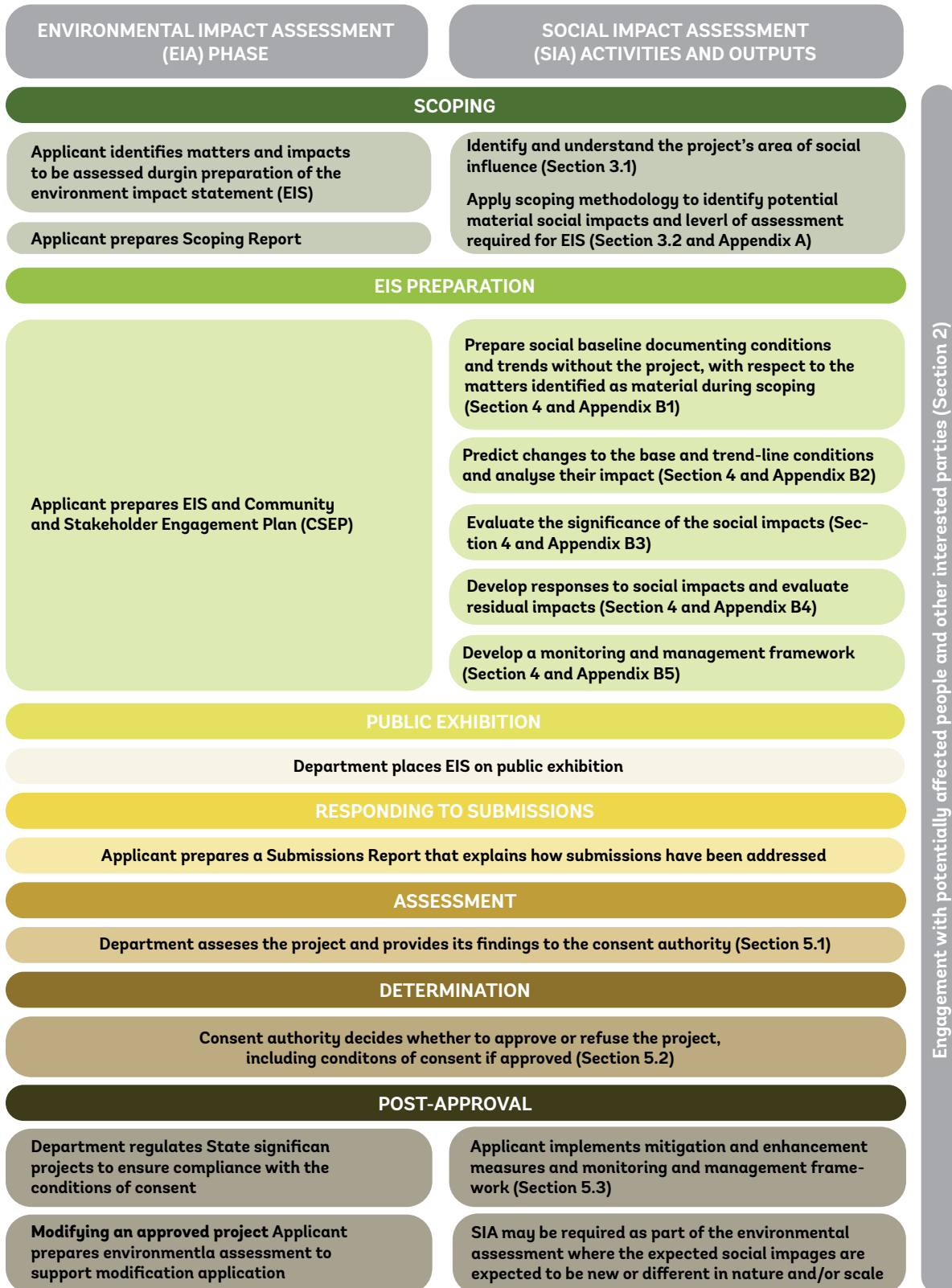
New South Wales, in 2017, issued its own guidance on integrating social assessment and management into project development and implementation. As participants and academics,

Richard Parsons (NSW Department of Planning), Jo-Anne Everingham (Centre for Social Responsibility in Mining, The University of Queensland) and Deanna Kemp (Centre for Social Responsibility in Mining, The University of Queensland) authored a helpful 2018 article for IAIA. (Parsons et al. 2018). In Developing social impact assessment guidelines in a pre-existing policy context, the three authors describe challenges and lessons from developing the NSW social impact guidelines. Key findings related to i) strategies to support inclusive processes, ii) defining community in the context of resource projects in New South Wales, iii) strategies to ensure heterogeneity and a diversity of voices in the process as well as iv) adaptation. (Parsons et al. 2018, 117-19).

The NSW guidelines provide recommendations of how to integrate social dimensions into each phase of the NSW EIA process. The guidelines, issued by the Department of Planning and Environment in 2017, provide an overview of social impacts, guidance on community engagement and link to project specific resources for proponents to utilize in their proposed projects. (NSW DPE 2017). Figure 5.1, below, is a useful flowchart produced by New South Wales DPE that describes how SIA activities and outputs must contribute to different phases of EIA.

Implementation will be the test. This system is still new and there does not appear to be literature assessing its effectiveness. Conversations with some practitioners have raised questions around implementation, the treatment of Indigenous communities and free prior and informed consent within the framework.

Figure 5. Complementary EIA and SIA Activities and Outputs in New South Wales



Source: NSW DPE (2017), 9.

4.2. Effective Public Participation in National Systems for ESIA

ESIA literature consistently identifies participation as a vital element, yet there is little consensus on core definitions or elements of good practice. An influential article from 2013 by Glucker and colleagues at the NCEA summarized the state of the field, stating that there was “widespread consensus” that meaningful public participation promotes effective ESIA systems. (Glucker et al. 2013, 104). Nearly every country’s ESIA system includes public participation in some form and to some extent. (UNEP 2018, 51). But there are disagreements within national ESIA systems over exactly what participation means, what capacities are needed for effective participation and how regulators, proponents, civil society organizations and communities can effectively promote and deliver on participation.

IAIA defines “public participation” in impact assessment as “the involvement of individuals and groups that are positively or negatively affected by a proposed intervention (e.g., a project, a program, a plan, a policy) subject to a decision-making process or are interested in it.” (IAIA 2006, 1). From this definition, IAIA developed three elements of good practice: basic principles, operating principles and developing guidelines. The following tables summarize these basic and operating principles. Table 7 describes IAIA’s basic principles for public participation. Table 8 describes IAIA’s operational guidelines. The third element of IAIA good practice, developing guidelines, recommends that all actors promote access to information, high-level involvement in participation, creativity and access to justice and equity. (IAIA 2006, 3). Borrowing the IAIA 2006 definition of public participation, this review will use the term public participation to describe the wide range of activities currently undertaken in ESIA systems.

Table 7. IAIA Basic Principles for Public Participation

PRINCIPLE	DESCRIPTION
Adapted to the context	Participation should be grounded in the “social institutions, values, and culture of the communities in the project area” and respect “the historical, cultural, environmental, political and social backgrounds of the communities.”
Informative and proactive	The public has a “right to be informed early and in a meaningful way in proposals which may affect their lives or livelihoods.”
Adaptive and communicative	Communication should respect all groups and be based on “their demographics, knowledge, power, values and interests.”
Inclusive and equitable	All interests should be represented, with particular attention to mechanisms to defend the interests of “Indigenous Peoples, women, children, elderly and poor people.” Equity with future generations should be considered.
Educative	Participation should contribute to a mutual respect of all stakeholders.
Cooperative	Participation should promote “cooperation, convergence and consensus-building rather than confrontation.”
Imputable	Ultimately participation should be about improving potential projects and ensuring that community inputs have contributed to decision-making.

Source: (IAIA 2006, 2).

Table 8. IAIA Operational Principles for Public Participation

PRINCIPLE	DESCRIPTION
Initiated early and sustained	The public and communities “should be involved early (before major decisions are made) and regularly in the [impact assessment] process.”
Well planned and focused on negotiable issues	Goals, rules and procedures should be understood by all stakeholders and public participation “should emphasize understanding and respect for the values and interests of participants, and focus on negotiable issues relevant to decision making.”
Supportive to participants	Public participation should be supported both by transparent access to information and by “equitable access to funding or financial assistance” to support informed participation.
Tiered and optimized	Participation should center at the “appropriate level of decision-making (e.g., at the policy, plan, program or project level) for a proposal.”
Open and transparent	All potentially affected people “should have access to all relevant information,” in digestible forms and including through “relevant workshops, meetings and hearings related to the IA process.”
Context-oriented	Participation process should be designed from the needs of affected communities and be based on “social organization of the impacted communities, including the cultural, social, economic and political dimensions.”
Credible and rigorous	Participation should be grounded in ethics, professional behavior and moral obligations. A neutral facilitator “improves impartiality of the process as well as justice and equity in the right to information.” For formal participation, codes of ethics are encouraged.

Source: (IAIA 2006, 2-3).

As noted in Chapters 1 and 3, numerous international agreements enshrine participation in environmental decision making as a right. An effort by SAIEA, supported by the World Bank, reviewed these standards in detail as they applied to Southern African countries. (SAIEA Calabash Project, undated). The Rio Declaration affirms the right to information, participation and justice in environmental decision making. (Rio Declaration 1992, Principle 10). There are now nearly fifty State parties to the Aarhus Convention, which established a right for those directly affected as well as environmental NGOs to participate in environmental decisions. (Aarhus Convention 1998). The Escazú Agreement similarly affirms the right of participation in environmental decision making in several Latin American countries and guarantees a safe and enabling environment for those who promote and defend human rights in environmental matters. (Escazú Agreement 2018, Articles 7 & 9). Under the ESF, the Bank requires Borrowers to “engage with stakeholders, including communities, groups, or individuals affected by proposed projects, and with other interested parties, through information disclosure, consultation, and informed participation in a manner proportionate to the risks to and impacts on affected communities.” (World Bank 2017, Policy, para. 53). Borrowers consult stakeholders throughout the project life cycle by providing them with “timely,

relevant, understandable and accessible information,” and consulting with them in a “culturally appropriate manner, which is free of manipulation, interference, coercion, discrimination and intimidation.” (World Bank 2017, ESS10, paras. 6-7.)

Literature points to different motivations for participation in national ESIA systems. The ESF incorporates varied elements of good international practice and rationales for stakeholder engagement and participation, stating “effective stakeholder engagement can improve the environmental and social sustainability of projects, enhance project acceptance, and make a significant contribution to successful project design and implementation.” (World Bank 2017, ESS10, para. 1). In 2013, the article by Glucker and colleagues usefully summarized rationales for public participation as “normative,” “substantive” and “instrumental.” (Glucker et al. 2013, 106). Normative rationales rely on values, like democracy and the belief that those most impacted should influence decisions. Substantive rationales focus on how harnessing local sources of knowledge and enabling experimentation will improve project performance. Instrumental rationales focus on legitimacy of decision making and conflict management. (Glucker et al. 2013, 106-9). These are not just academic questions; they carry important practical implications for Borrower countries and the World

Bank Group, including clarifying who should participate, when and for what purpose. The answers to these questions will influence the design of an ESIA system's participation procedures as well as the project itself.

Several efforts have sought to quantify the benefits of meaningful consultation and participation. An important study by the World Resources Institute in 2007 makes a business case for proponents to share information, invest in effective public participation and, ultimately, seek community consent for high-risk projects. (Herz et al. 2007). The study identifies numerous risks for proponents and governments in failing to seek community consent for projects, including risks associated with interruption of financing, delay or disruption of construction and operations and harms to reputation. (Herz et al. 2007, 12-15). A 2014 study by several corporate social sustainability experts affirms these arguments and suggests that an "improved understanding of the relationship between environmental and social risk and project success has the potential to enhance the sustainability outcomes of large-scale development in the extractive industries." (Bebbington et al. 2014, 6). Participation and community engagement are viewed as key strategies to address environmental and social risk. The Mekong Partnership for the Environment built on these arguments in a publication that makes the business case for public participation in the region. (Mekong Partnership, 2017). The publication states that there are four primary reasons proponents should support strong participation models: "competitive advantage, risk management, maintaining a social license to operate; and/or contributing to a country's [SDGs]." (Mekong Partnership, 2017, 3). Public participation can help maximize both business and social benefits.

Key Elements of Public Participation

National ESIA systems define the "public" differently. Defining the public is an essential preliminary step as it in turn establishes the scope of opportunity to participate in national ESIA system functions. There are two constituencies broadly recognized to participate in national ESIA systems: i) populations directly affected by the project and ii) non-governmental organizations, advocacy groups and the broader public. (Glasson and Therivel 2019, 152). Participation of civil society groups and NGOs is viewed as important, however it is more

frequently guaranteed in Europe and the North America than it is in developing countries. (UNEP 2018, 63). In defining "the public," in the context of strategic environmental assessment, the UNECE recommends taking a broad definition to include a "wide range of interests, ensuring a well-balanced and inclusive involvement of the public. Many decisions with an environmental dimension also involve health, social and economic interests, and the corresponding interest groups could be included in the public participation in an equitable way." (UNECE 2016, 11). UNEP identifies Indigenous Peoples as a key group that should have participation rights. (UNEP 2018, 63). The ESF seeks to ensure that Indigenous Peoples and Sub-Saharan African Historically Underserved Traditional Local Communities "are fully consulted about, and have opportunities to actively participate in, project design and the determination of project implementation arrangements." (World Bank 2017, ESS7, para. 11).

National systems vary in what stages the public is allowed to participate. The ESF requires participation and stakeholder engagement throughout the project, stating: "Stakeholder engagement is an inclusive process conducted throughout the project life cycle." (World Bank 2017, ESS10, para. 2). The ESF specifically requires the Borrower to support early participation to "gather initial views on the project proposal and inform project design." (World Bank 2017, ESS10, para. 22). The UNEP 2018 EIA review provides a comprehensive, if challenging, assessment of the state of public participation across countries. The report describes significant divergence in approaches to implementation based on the experiences of numerous countries⁵. It notes that direct participation in project meetings and/or discussions on the draft EIA report is often limited to only those groups seen as directly affected by the proposed project. (UNEP 2018, 60-61). The broader public and NGOs are sometimes able to participate at other phases, including scoping and final decision making. Literature generally agrees that public participation is important in all phases of the assessment process. Specific participation requirements are typically established at the screening stage as the proponent and/or competent authority decide what process should apply to the proposed project. (UNEP 2018, 51). In many national systems, public participation is only allowed or required if a formal ESIA is triggered, and participation might not occur under other processes. (UNEP 2018, 51).

⁵Including Canada, China, Costa Rica, Denmark, Egypt, Fiji, Georgia, India, Indonesia, Kenya, Nigeria, Oman, Peru, and South Africa, among others.

Some national systems only require public participation during assessment, after the draft report has been developed. (UNEP 2018, 52). This is despite the fact that the IAIA, World Bank ESF and other influential sources identify clear benefits to early, sustained public participation. The IAIA, for example, explains that early participation “builds trust among participants, gives more time for [public participation], improves community analysis, improves screening and scoping of the [impact assessment], increases opportunities to modify the proposal in regard to the comments and opinions gathered during the [public participation] process, reduces the risk of rumors, and improves the public image of the proponent.” (IAIA 2006, 2).

Participation at the screening stage is uncommon but recommended. The IAIA principles, World Bank ESF and UNEP envision public participation at the screening stage. UNEP says participation at the screening stage is ideal. (UNEP 2018, 52). The ESF mandates stakeholder engagement “as early as possible in the project development process and in a timeframe that enables meaningful consultations with stakeholders on project design.” (World Bank 2017, ESS10, paras. 6, 13). Most national ESIA systems, however, mandate participation only at the scoping or review stage. (UNEP 2018, 52-3). Still, many national ESIA systems do require that proponents or coordinating institutions at least publicly disclose that an application has been filed. (UNEP 2018, 53). Active participation during the screening phase corresponds with approaches taken in SIA literature, which notes that social impacts, such as peoples’ fears and aspirations, start well before the official commencement of a project. (IAIA Guidance Note 2015, 2). Box 11 explores participation at the screening phase in Nigeria.

Box 11. Participation at the Screening Phase in Nigeria

Decisions made at the screening phase establish the ways in which the ESIA process will be carried out.

The screening phase typically establishes the overall process, including what the level of scrutiny, required assessments and how and what information is to be shared with affected communities. Few national ESIA systems explicitly provide for public participation at the screening stage, with the UNEP review noting only Canada and Nigeria. (UNEP 2018, 52). Within the federal ESIA system in Nigeria, the National Environmental Standards and Regulations Enforcement Agency must “provide interested members of the public the opportunity to provide input through comments on the project report, which are then put on display relating to the conclusions and recommendations made.” (UNEP 2018, 53). Despite these requirements, the UNEP legislation review study cites two articles analyzing the Nigerian ESIA process which find that the timelines for public comment are often too short and the process too “politicized.” (UNEP 2018, 53).

Participation at the scoping and preliminary assessment phase is more common than at the screening phase. Participation at the scoping phase can identify key issues for the report from the perspective of affected communities, thereby focusing the review on their priorities. (UNEP 2018, 53). The UNEP report states that Peru, Indonesia, Denmark, Kenya and Oman have incorporated participation at the scoping phase. (UNEP 2018, 53-4). Box 12 explores these dynamics in Indonesia.

Box 12. Opportunities for Participation at the Scoping Phase in Indonesia

Indonesia’s national ESIA system incorporates participation at the scoping phase.

Participation is spelled out in detail within the 2009 Regulation of Environmental Permits of Indonesia as well as the 2012 Guidelines for Community Engagement. The public is given ten working days to comment on the announcement of the proposed activity by the proponent. The Guidelines for Community Engagement spell out how the project should be announced, including translations, type of media and content. (UNEP 2018, 53-4). The UNEP review notes that the 2012 Guidelines actually shortened the period for comment from thirty to ten days and questions whether this is sufficient time for meaningful public engagement. (UNEP 2018, 54).

Public participation in review, decision-making and licensing is common, but it varies in approach and substance. Participation at this phase can range from disclosure of the ESIA report to robust and shared

ownership over decision making. The UNEP 2018 review describes five common approaches to participation at this stage: i) disclosure of ESIA report and the opportunity to comment, ii) provision of a simple, translated version of the ESIA report, iii) public meetings and/or hearings to discuss and evaluate the ESIA report, iv) creation of a multi-stakeholder committee, including affected communities, to review the ESIA report and v) some combination of these approaches. (UNEP 2018, 55). The amount of time given to participate influences the effectiveness of the participation provision. (UNEP 2018, 55). The ESF recognizes the importance of timelines conducive to public participation and requires Borrowers to adopt a timeframe “that enables meaningful consultations with stakeholders on project design.” (World Bank 2017, ESS10, para. 6). With implementation arrangements, sometimes proponents are responsible for organizing participation whereas in other arrangements, the government plays this role. (UNEP 2018, 55). Requirements for incorporating feedback at this stage are also varied. Some national systems mandate public hearings, for example in Ghana as described in Box 13, and feedback in decisions describing “how far comments have or have not been taken into account.” (UNEP 2018, 56). The ESF adopts this requirement for Borrowers, stating that the “Borrower will maintain, and disclose as part of the environmental and social assessment, a documented record of stakeholder engagement, including a description of the stakeholders consulted, a summary of the feedback received and a brief explanation of how the feedback was taken into account, or the reasons why it was not.” (World Bank 2017, ESS10, para. 9).

The literature suggests that mechanisms for public participation in monitoring, management and auditing are relatively weak. The UNEP review states that public participation in follow-up and monitoring is rare but beneficial. Recent ESIA laws and regulations are increasingly incorporating public participation at the feedback and review stage. (UNEP 2018, 78). SIA literature more regularly documents the importance of ongoing public participation in management and auditing, which may be an important frontier for national ESIA systems. (IAIA Guidance Note 2015). The ESF specifically envisions participation at this phase of the project cycle, stating that the “Borrower will seek feedback from stakeholders on the environmental and social performance of the project, and the implementation of the mitigation measures in the ESCP.” (World Bank 2017, ESS10, para. 24). The ESF also requires consultation with project-affected parties if there are any significant changes to the project design during implementation. (World Bank 2017, ESS10, para. 25).

Some literature points to debates around what institutions should support public participation, including government agencies, proponents and NGOs. Hasan studied projects in Bangladesh and found that NGO-supported participation models were more robust than those implemented by the Bangladeshi government. (Hasan 2018). Lai and Hamilton have assessed the roles of intermediary actors in strengthening EIA participation. In conducting their literature review of effective participation and environmental justice, the authors found that intermediaries “play a dominant role in environmental practices through the choices they make, the interests

Box 13. Public Hearings for EIA Review in Ghana

Ghana’s national ESIA system incorporates public hearings as a tool for public participation. The Ghana EIA Act of 1994 and Procedures of 1995 require the Environmental Protection Agency to enable public participation. A public hearing is required when “strong public concerns are raised” and the projects “potential impacts are extensive and far reaching.” (Appah-Sampong 2002, 85). The panel for public hearings must be made up by at least a third local representatives and they are open to the broader community. In the first 3 years of implementation of the act Appah-Sampong found that only 8 of 72 EIS were subject to public hearing. (Appah-Sampong 2002, 86). Writing 10 years later, Bawole criticized participation mechanisms in the oil sector, including the public hearings, as “cosmetic.” (Bawole 2013). Bawole summarizes multiple limitations of the hearing approach including that they occur too late in the process to make fundamental design changes and often occur far from the proposed project site. (Bawole 2013).

they priority[3]e and mobile[3]e, the strategies and platforms they seek to influence, and the other actors they interact with and represent.” (Lai and Hamilton 2020, 2). The authors conclude that clarifying and strengthening the roles of NGO intermediaries could improve the integrity and accessibility of the EIA process. (Lai and Hamilton 2020, 8-10).

Literature views capacity as a key element of effective participation and assesses how national systems can build the capacity of vulnerable or disadvantaged groups to participate. Supporting groups and communities with limited capacities to effectively participate in national ESIA processes is described as a key function of national ESIA systems. The IAIA 2006 principles on public participation recommend that “Capacity-building, facilitation and assistance should [] be provided particularly for groups who don’t have the capacity to participate, and in regions where there is no culture of [public participation], or where local culture may inhibit [public participation].” (IAIA 2006, 2-3). The ESF similarly requires that a

Borrower’s stakeholder engagement plan describe “measures that will be used to remove obstacles to participation” and, when needed, “include differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable.” (World Bank 2017, ESS10, para. 16). The 2018 UNEP study similarly identifies the need to provide support to disadvantaged groups for effective participation in national ESIA processes. (UNEP 2018, 63-4). The IAIA Guidance Note suggests that capacity building, facilitation and assistance are critical tools for effective participation. When discussing community development agreements, for example, the Guidance Note suggests that competent independent professional advice for communities is essential for a good faith agreement. (IAIA Guidance Note 2015, 57). The Impact Assessment Agency of Canada (IAAC) provides funding opportunities to “support individuals, non-profit organizations and indigenous groups interested in participating in federal impact assessments and other Agency engagement initiatives and activities,” which is described in Box 14. (IAAC 2020c).

Box 14. Supporting Public Participation in Canada

In 2019, the Government of Canada passed a new Impact Assessment Act which places considerable emphasis on public participation. The Act incorporates a vision of public participation that enables Canadians “to meaningfully participate in each phase of the impact assessment process.” (IAAC 2021). The Act incorporates participation at multiple stages of the ESIA process and offers concrete support to enable and expand informed participation.

Participation models in Canada are grounded in fundamental principles and values. The IAAC articulates principles, including: i) participation is desirable at all phases of the ESIA process, ii) participation should prioritize those most affected by proposed projects, but also enable broader public participation, iii) relevant information must be transparently disclosed, iv) affected and interested parties will be given timely notice, v) funding will support the participation of the public and Indigenous communities, and vi) processes should be adaptive and

evolve over time. (IAAC 2021).

The IAAC emphasizes how timelines impact meaningful participation. At the planning or scoping phase, which occurs within 180 days, the ESIA process should identify public concerns, identify preferences and perspectives and define a public participation plan. The public participation plan defines how and when the public and affected communities will participate in the remaining stages of the ESIA process. The participation plan will then spell out how informed participation is implemented in the Impact Statement, Impact Assessment, Review and Decision Making Phases of the project cycle. (IAAC 2021).

Participation should be enabled through multiple forms of communication. The IAAC notes that participation should include a range of tools including in person consultations, online and interactive tools, social media and plain language summary documents. Ultimately, the goals of all of these forms of communication is to ensure active and meaningful participation from

diverse constituencies. (IAAC 2021).

The Canadian model offers designated funding for participation and capacity building of Indigenous communities. The Indigenous Capacity Support Program, administered by the IAAC, seeks “to enhance meaningful engagement and leadership of Indigenous peoples in consultations on project assessments.” (IAAC 2020a). Core activities include participation support for specific ESIA process as well as broader capacity building support. (IAAC 2020d). The IAAC website details nearly \$4.8 million Canadian dollars over the first year of the program. (IAAC 2020b).

The Canadian model also offers designated funding for the effective and informed participation of affected (non-Indigenous) communities. This dedicated funding stream supports “individuals, non-profit organizations and Indigenous groups interested in participating in federal impact assessments and other Agency engagement initiatives and activities.” (IAAC 2020c).

Some literature critiques public participation as too time consuming and vague. Some suggest that proponents and some industry groups view participation as both time consuming and ineffective. Participation may actually “represent the views of the most vocal interest groups rather than the general public” or those most affected. (Glasson and Therivel 2019, 150). In the view of some proponents, this has the potential to delay or even undermine projects without clear benefits.

Others assert that participation should be conceptualized more expansively and meaningfully. As described in Section 4.2, SIA practitioners have critiqued EIA processes as being too narrow. In assessing key questions around public participation, it is important to also note the literature that critiques the effectiveness of public participation. (Vanclay 2020). Bond, for example, agrees, arguing that participation in ESIA focuses on participation in the regulatory process and limits opportunities for “genuine empowerment” by design. (Bond et al. 2020, 6).

4.3. Expertise, Independence and Accountability within National Systems for ESIA

Expertise, independence and accountability have technical and policy dimensions. From industry standards like the Equator Principles to development bank standards like the ESF, expertise, independence and accountability are found to be important elements of effective national practice. (World Bank 2017, Policy, para. 4). While these themes are assessed throughout this Review, this section will briefly summarize emerging literature around expertise, independence and accountability.

National ESIA system expertise is strengthened through multiple strategies. In the context of the ESF, the World Bank assesses Borrower country capacity to manage environmental and social risks, including the Borrower country’s ability to “obtain the necessary expertise to carry out the environmental and social assessment.” (World Bank 2017, Policy, para. 36, note 29). Many national systems seek to guarantee competent and technically sound assessment through regulation of competence. In most national systems, impact assessments and reports are produced by external experts and consultants, with the proponent typically paying these experts directly. This creates

some “risk of co-optation” and can raise concerns of perceived conflicts of interest from the community. (Vanclay 2020, 129). Indeed, there are examples of environmental assessors publicly promoting and advocating for projects they should be objectively and technically assessing. (Laurance 2018). The certification of expertise has emerged as a strategy to manage these potential conflicts.

The government regulation and certification of environmental and social consultants and firms is an increasingly used tool to promote expertise and independence. Certification typically includes some combination of specialized training as well as ongoing oversight. (UNEP 2018, 43-4). Some countries also incorporate criminal liability for false or inaccurate reports. (UNEP 2018, 44). Impact assessment associations, for example IAIA, also have their own professional standards. (IAIA 2010). A 2017 IAIA study, updated in 2019, reviewed professional recognition schemes for impact assessment and found thirty-nine different countries use models of accreditation or certification. Thirty-six of the countries reviewed had no accreditation standards. (IAIA 2017, 15). In 2014 the EC introduced a requirement where proponents must ensure EIA reports are submitted by experts with “sufficient expertise.” (IAIA 2017, 23). This reform is described as a driver of expansion of national certification schemes.

Other systems work to ensure financial independence alongside professional competence. The World Bank Guidance Note on Third-Party Monitoring (TPM) under the ESF, for example, suggests that because the government typically pays for or conducts monitoring, steps should be taken to ensure that the monitoring is insulated from interference. (World Bank 2018b, 13). The Guidance Note recommends steps to assess and address conflicts of interest as well as the establishment of reporting lines to ensure that the third party can “raise concerns and make recommendations without interference, and that these views can then be discussed with the Bank and the Borrower.” (World Bank 2018b, 13).

ESIA decision makers ultimately should make independent determinations based on economic and social benefits and costs. Country systems, and societies more broadly, invariably have different values that influence these decisions. An acceptable social or environmental cost in one context may be deemed

unacceptable in another. Experts from the Canadian context have spoken of the need to ensure that “the EA process is democratically accountable” in order to reflect the values of the society. (Joseph et al. 2015, 245). They recommend a process that is not so much independent but one that is accountable to the public who collectively should share both the benefits and costs. Independence and accountability are related. Eliminating bias or interference in decision making is a strategy for independence that strengthens accountability. (Joseph et al. 2015, 245). The use of criteria for decision making discussed in Chapter 3 helps promote independence. Such guidance or requirements can help reduce subjectivity and ensure that different project decisions face uniform scrutiny. (Joseph et al. 2015, 246-7). Box 15 describes an institutional mechanism which seeks to ensure that EIA reports in The Netherlands are effective and unbiased.

Box 15. Independent EIA Review in the Netherlands

In the Netherlands, the regulatory framework incorporates the independent review of EIAs for complex projects. In the late 1980s, the Government of the Netherlands established the NCEA as an independent body to provide assistance to competent authorities in reviews of EIAs. (OECD 2015, 112). NCEA’s role is to comment on the scope and quality of the ESIA report in effort to support effective and unbiased decision making by the competent ESIA authority. The OECD characterizes this process as effective, noting that the NCEA “exerts significant influence through its independence, expertise and transparency. (OECD 2015, 112).

Transparency is essential for accountability. The literature consistently states that key documentation within national ESIA systems, including decisions, should be made public. This includes not just the decision-making body’s licensing decision, but good practice also suggests public access to the materials on which the decision was based, including scientific studies, management plans and any additional conditions. (UNEP 2018, 69). UNEP suggests that making decisions and materials available will strengthen both government monitoring as well as public accountability. (UNEP 2018, 69). Earth Rights, an environmental NGO, describes transparency as critical for

building community confidence in the integrity of the ESIA process. (Earth Rights 2016, 13). Many jurisdictions require that decisions formally respond to public input, and this is increasingly seen as an important good practice. (UNEP 2018, 69-70). Access to information laws can contribute to this openness and the Rio Declaration recommends that stakeholders be afforded “appropriate access to information concerning the environment.” (Rio Declaration 1992, Principle 10). The ESF reflects these good practices, requiring disclosure of “sufficient information about the potential risks and impacts of the project” (World Bank 2017, Policy, para. 50) as well as “a documented record of stakeholder engagement, including a description of the stakeholders consulted, a summary of the feedback received and a brief explanation of how the feedback was taken into account, or the reasons why it was not.” (World Bank 2017, ESS10, para. 9).

A broad right to appeal ESIA decisions as well as a grievance redress system further strengthens accountability. UNEP and the survey of Canadian experts both recommend that interested parties should be able to appeal decisions on both substantive and procedural grounds. (UNEP 2018, 71; Joseph et al. 2015, 248). This can serve as an important check for undue influence. Accountability is also furthered through effective systems for grievance redress. The World Bank ESF incorporates such accountability strategy through multiple avenues. Under the ESF, the Bank requires Borrower countries to “provide a grievance mechanism, process, or procedure to receive and facilitate resolution of concerns and grievances of project-affected parties arising in connection with the project.” (World Bank 2017, Policy, para. 60). In furtherance of the effectiveness of this mechanism, the ESF further enables complaints of Bank-financed projects to be lodged with “the project grievance mechanism, appropriate local grievance mechanism, or the World Bank’s corporate Grievance Redress Service (GRS).” (World Bank 2017, Policy, para. 61).

Administrative procedure laws can also further the accountability of national ESIA systems. The Rio Declaration states that “effective access to judicial and administrative proceedings” is a key component of participatory and accountable environmental decision making. (Rio Declaration 1992, Principle 10). Administrative procedure laws allow people and organizations to seek judicial or administrative review or appeal of decisions made by public administrative bodies,

including potentially public institutions within the ESIA system. These laws vary across national systems but typically enable either review within the agency that makes ESIA decisions, an administrative or judicial court or both. (ELAW 2010, Chapter 4). Administrative laws generally incorporate three principles: i) the decisions of public administrative agencies should be informed by “relevant considerations” established by law and should not “be influenced by outside information or demonstrate bias,” ii) “Discretionary powers must be exercised within the bounds of the legislation that grants the authority,” and iii) people and groups impacted by the decision are “entitled to procedural fairness.” (ELAW 2010, 90).

Independence and accountability principles are furthered through monitoring by multiple constituencies. IAIA’s seventeen principles for EIA follow-up referenced in Chapter 3 suggest that there should be multiple actors involved in monitoring to ensure effective monitoring with sufficient independence. First, the proponent should “accept accountability for implementing EIA follow-up.” (IAIA 2007, 3). The regulator should also determine monitoring needs and ensure they are implemented effectively. At a minimum, the community should be given information about follow-up and “direct community participation in follow-up program design and implementation is desirable.” (IAIA 2007, 3). Most monitoring is conducted by the proponent and proponents are typically required to submit reports to the regulatory body. (UNEP 2019, 14). Literature is increasingly suggesting that independent monitoring has a role to play. An excellent publication from the Indian research institute Centre for Policy Research offers more than a dozen of case studies of how independent, third-party monitoring is confronting non-compliance with environmental licenses to strengthen environmental outcomes for poor communities. (CPR 2019). The Gujarat independent auditing example, in Box 8 of Chapter 3, also describes how independence of third-party auditors may strengthen accuracy and improve outcomes.

4.4. National Systems for ESIA Effectiveness and Political Economy Analysis

As national ESIA systems have become ubiquitous features of environmental and social governance, practitioners increasingly focused on their effectiveness. The ESY Map tool, described in Chapter 3, is an important example of a systematized effort to benchmark ESIA performance.

Some academic literature questions whether ESIA systems actually manage to influence decision making. A core purpose of ESIA systems is to inform and influence the decisions of government officials with the responsibility to approve and monitor projects based on the criteria and considerations spelled out in the national ESIA legal framework. In this sense, the ESIA system is effective only to the extent that it actually influences decision makers, project design and implementation as intended. Loomis and Dziejdzic, researchers based in Brazil, undertook a 2018 literature review of 64 studies interrogating EIA effectiveness. (Loomis and Dziejdzic 2018, 29). The authors conclude that “there are still no studies that empirically measure the direct influence of EIA on decision-making, especially behavioral changes resulting from the preventative nature of EIA.” (Loomis and Dziejdzic 2018, 34). This review looked at four dimensions of EIA effectiveness (procedural, substantive, transactive, and normative⁶), drawing on the work of Bond, Cashmore, and Kolhoff and found that procedural effectiveness is the most studied. (Loomis and Dziejdzic 2018, 30, referencing Bond et al. 2004, Bond et al. 2020, Kolhoff et al. 2018). In 2020, Bond and colleagues offered an even starker assessment of ESIA effectiveness literature, questioning ESIA’s “popularity as a decision tool in the absence of convincing evidence that it achieves its goal of delivering evidence-based, accountable, decision-making.” (Bond et al. 2020, 7).

Significant literature points to institutional capacity as the key constraint for ESIA system effectiveness. UNEP and UNECA argue that capacity limitations have undermined ESIA effectiveness in multiple regions. (UNEP 2018, 7; UNECA 2005, iv). These reports do not

⁶ The authors define these dimensions as procedural (Policy and institutional infrastructure; Level of adherence to the applicable regulations whether federal, state, or local; Focused on actual practices), substantive (Degree to which EIA mitigates negative environmental impacts; Degree to which EIA affects the decision-making process; Attainment of EIA policy objectives), transactive (Degree to which EIA avoids delays and cost overruns; Clarity of stakeholder roles; Personnel with adequate skills readily available), and normative (Level of wider goal or policy achievements, e.g., sustainable development and a democratic participatory process; Minimizing tradeoffs).

devote much time to the question of how capacity is built or generated, however. The UNEP report argues that “capacity develops over time and that legislation for EIAs ... may serve as a catalyst.” (UNEP 2018, 8). But it does not offer much analysis beyond that. The World Bank’s 2017 World Development Report (WDR) embraces political economy analysis and has a different perspective of capacity. The 2017 WDR argues that “state capacity is largely a function of power; ruling elites invest in the capacity of governing structures when it is in their interest to do so.” (World Bank 2017b, 203). Despite the 2017 WDR’s focus on governance, it does not explore the use of ESIA, EIA or SIA as a governance strategy. (World Bank 2017b). This is a somewhat surprising omission given the ubiquity of national ESIA systems as a key governance mechanism to assess, manage, and regulate environmental and social impacts in development. The World Bank Group’s *Doing Business 2020* similarly did not fully consider the role of national ESIA systems within the assessment of a country’s business regulations. (World Bank 2020).

Some literature calls for a greater focus on the political economy of implementation of national systems for ESIA. McCullough, a former research fellow at the Overseas Development Institute (ODI), explored these dynamics in a 2016 ODI briefing paper. (McCullough 2016). Researchers in India have also applied political economy methods to the ESIA process. These researchers found that while industry groups have significant power over the ESIA process, ESIA processes are also an important site for influence by environmental groups. (Turaga 2016, 1). The ODI briefing offers a more comprehensive analysis and reviewed political science literature focused on EIA. It found only a few studies grappling with questions of how “politics works to influence, and in some case prevent, ESIA findings from having an impact on decision-making in developing countries.” (McCullough 2016, 3). From this review, McCullough suggests three weaknesses with the current approach to ESIA: an over reliance on regulatory models borrowed from the United States and Western Europe, the privileging of formal institutions in the ESIA process, and the treatment of better public participation as a “panacea” to ESIA’s problems. (McCullough 2016, 4-5).

Political economy tools might help strengthen national ESIA systems. The 2016 ODI briefing paper describes how political economy and political settlement theory might help reconceptualize strategies to strengthen

EIA and ESIA implementation. The paper suggests that a nuanced and strategic analysis of political will and state capability, the two identified constraints of national systems, might help tailor reforms to the context. (McCullough 2016, 5). The paper recommends a greater focus on broader governance arrangements for ESIA, where the core functions sit and how they are financed. (McCullough 2016, 6). The ODI briefing explores different institutional typologies described by Kelsall (dominant-developmental, dominant-predatory, elitist competitive clientelist and inclusive competitive clientelist) to propose what types of strategies will be effective in different contexts. (McCullough 2016, 7-9). In conclusion, McCullough suggests that more research should be undertaken to assess how political economy and political settlement theories can help strengthen ESIA effectiveness.

The World Bank has explored using institutional, capacity, and political economy assessment in strategic environmental assessment and natural resource governance. In 2011, the World Bank and others offered a conceptual model and operational guidance for SEA in Policy and Sector Reform. This analysis specifically recommended the use of institutional “capacity, and political economy assessment” to effectively account for political economy constraints for effective implementation. (World Bank 2011, 5). The study details the role of political factors in constraining effective environmental governance reform in a number of contexts. (World Bank 2011, Table 2.3). Drawing on these experiences, the study concludes: “changing organizational cultures and navigating the currents of political economy in the context of sector reform are major challenges that require sensitivity, long-term engagement, and a great deal of political skill.” (World Bank 2011, 48). The study offers concrete suggestions of how to incorporate a range of perspectives, including political science, anthropology, and sociology, into environmental reform efforts. (World Bank 2011, 49). Despite its expertise, it does not appear that the World Bank has yet adopted similar perspectives to these aspects of ESIA reform.

4.5. Incorporating Transboundary Impacts into National Systems for ESIA

Procedures to account for transboundary impacts are increasingly recognized as an essential element of effective national ESIA systems. Since at least

the early 1970s, countries have considered how to plan and account for a project's environmental and social impacts that extend beyond national borders. (Schrage and Bonvoisin 2008, 234). In 1987, for example, UNEP issued guidelines on EIA recommending that when a proposed activity in one country is likely to significantly impact another country, the government should a) provide notice of the proposed activity to the potentially affected country, b) transmit relevant information about the project and c) enter into consultations, when agreed. (UNEP 1982, Principle 12). The State obligation to assess transboundary environmental impacts has subsequently been established within international law, with the International Court of Justice recognizing the obligation to assess significant adverse transboundary impacts under customary international law in the Pulp Mills decision (*Argentina v. Uruguay*) of 2010. (ICJ 2010, 83). Particular regions have developed specific approaches to transboundary assessment, including within Europe, North America, Central America, the Nile Basin and the Mekong River Basin. The ESF similarly requires Borrowers to consider transboundary impacts when conducting social and environmental assessment, stating that Borrowers should consider risks "related to climate change and other transboundary or global risks and impacts." (World Bank 2017, ESS1, para. 28).

Regional approaches to transboundary collaboration vary, but there has been increased attention to transboundary ESIA following the Pulp Mills decision. Europe has a robust framework, with the UNECE's 1997 Espoo Convention requiring signatories to conduct EIAs for activities that are "likely to have a significant adverse environmental impact across boundaries." (Espoo Convention 1991). UNECE has issued important Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (UNECE 2006) as well as more recent Guidance on the Application of the Environmental Impact Assessment Procedure for Large-scale Transboundary Projects. (EU 2013a). In 2019, the UNECE further revised its Guidelines on Environmental Impact Assessment in a Transboundary Context for Central Asian Countries. The Guidelines are based on relevant regional and international standards and provide step-by-step guidance for policymakers responsible for implementing transboundary ESIA in the region. (UNECE 2019).

Other regions have also developed important standards and guidelines for transboundary ESIA. The 1995 Mekong Agreement, for example, established requirements for transboundary EIA (MRC 1995), and the Mekong River Commission is working to establish a transboundary EIA regime, including through the development of draft guidelines. (MRC 2018, UNEP 2019, 13). The Tehran Convention, focused on the Caspian Sea region, together with UNEP, the European Bank for Reconstruction and Development and the Caspian Environment Programme, developed Guidelines on Environmental Impact Assessment in a Transboundary Context in the Caspian Sea Region in 2004. (UNEP et al. 2004). Since the late 1990s, Central American governments have, through the Central American Integration System, worked to develop standards for transboundary ESIA. A regional technical committee on EIA has sought to harmonize key elements and strengthen how national systems integrate transboundary considerations (Rojas et al. 2006, 30-33)⁷.

Transboundary impact assessment has several unique characteristics. Schrage and Bonvoisin, who have held senior roles in the Espoo Convention secretariat at the UNECE, summarized key characteristics of transboundary EIA in a 2008 special issue of the journal of *Impact Assessment and Project Appraisal* on transboundary impacts (Schrage and Bonvoisin 2008, 235-6). While now twelve years old, this article appears to remain the most comprehensive cross-country assessment of good practices in transboundary ESIA. Relying primarily on European experience, Schrage and Bonvoisin identify the following main issues to address in transboundary EIA and ESIA: i) clearly designating contact points and coordinating bodies for transboundary EIA; ii) establishing agreed approaches on how to share or allocate costs; iii) harmonizing approaches to public participation in transboundary EIA as well as addressing language issues; and iv) establishing common methodological approaches for determining significant impacts. (Schrage and Bonvoisin 2008, 235-6). The World Bank also has extensive experience in implementing transboundary ESIA, particularly related to hydropower projects as described in Box 16. World Bank Operational Policy 7.50 on Projects on International Waterways generally requires Borrowing countries to notify riparian States regarding proposed Bank-financed projects on international waterways. (World Bank 2012). However,

⁷ Note the Netherlands Commission for Environmental Assessment has contributed to this regional effort.

there are few reflections of the World Bank's experience within academic and grey literature.

There are also some unique challenges associated with transboundary assessment within national ESIA systems. Schrage and Bonvoisin summarized many of these challenges in their 2008 article. Among other challenges, they highlight: i) difficulties with coordination between multiple governments, particularly in decentralized or federal jurisdictions; ii) challenges and costs associated with language and translation; iii) the task of ensuring meaningful public access to information across national borders; iv) limited opportunities for public participation across borders; v) divergences in requirements at a country level leading to inequity in participation; and vi) disagreement about who covers costs associated with ESIA. (Schrage and Bonvoisin 2008, 235-6). There has been some progress on many of these issues in the years since the Pulp Mills decision (ICJ 2010). New technologies, for example, provide opportunities to reduce monetary and transaction costs to strengthen participation across countries.

Box 16. Transboundary Assessment of the Rogun Hydropower Project in Tajikistan

The Rogun Hydropower Project in Tajikistan had expected impacts on water use across the Amu Darya basin, covering Afghanistan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. As a result the ESIA process intentionally sought to incorporate the perspectives of downstream users into the formal ESIA process, including through public consultations in those countries. (Poyry Energy 2014, 21.2.1). The assessment process included "preliminary consultations on the terms of reference of the assessment studies as well as five formal riparian consultations on interim outputs and draft final reports." (World Bank 2014, 2.1). These in-country consultations took place with civil society and government in each of the potentially affected countries as well as multi-country consultations to strengthen dialogue. On the basis of these consultations and the ESIA process, a draft Environmental and Social Management Plan detailed "the mitigation measures and related monitoring activities that would be needed to meet international norms." (World Bank 2014, 3.2.3).

4.6. Incorporating the Mitigation Hierarchy into National Systems for ESIA

The mitigation hierarchy is a strategy to manage environmental and social risks and impacts. The World Bank's ESS1 requires Borrowers to adopt a mitigation hierarchy, which is defined by the ESF as steps to: "Anticipate and avoid risks and impacts; Where avoidance is not possible, minimize or reduce risks and impacts to acceptable levels; Once risks and impacts have been minimized or reduced, mitigate; and Where significant residual impacts remain, compensate for or offset them, where technically and financially feasible." (World Bank 2017, ESS1 para. 6). While literature and social and environmental standards have historically focused on minimizing project-related harm, literature is evolving towards an expectation that ESIA systems should screen out projects that are not adequately justified to maximize project benefits and encourage those with positive environmental and social impacts.

Many national ESIA systems do not fully incorporate the mitigation hierarchy framework. Mitigation should be a central element of an ESIA process. (IISD 2016b, 17). The mitigation hierarchy is also "fully imbedded" in ESIA practice in some jurisdictions, for example the United Kingdom. (IEMA 2011, 5). The IAIA Guidance Note on SIA explicitly recommends the integration of the mitigation hierarchy framework. (IAIA Guidance Note 2015, 53). UNEP states that incorporating the mitigation hierarchy framework into ESIA processes is "increasingly seen as good practice." (UNEP 2018, 49). However, the ways in which elements of mitigation hierarchy are incorporated into the ESIA process are uneven. A 2016 review of Asian ESIA practice found that impact assessment and the environmental and social impact monitoring plans were rarely incorporated the mitigation hierarchy. (Sano 2016, ii). As described in Box 17, countries in the Pacific appear to have incorporated steps of the hierarchy better than other regions. (SPREP 2018). On balance, however, the 2018 UNEP review states that the failure to sufficiently integrate the mitigation hierarchy framework within national EIA laws represents a "severe shortcoming" of the process. (UNEP 2018, 49). The Business and Biodiversity Offsets Programme similarly identifies deficiencies in the integration of "compensation and offsetting into EIA" as a key limitation for the effective use of the mitigation hierarchy. (BBOP 2016, 5).

Box 17. Incorporating the Mitigation Hierarchy into EIA in the Pacific

A proposed project by an Australian-owned company, Avenir Makatea, seeking to conduct phosphate mining on the Makatea atoll of French Polynesia is incorporating the mitigation hierarchy. In a case study documented by the Secretariat of the Pacific Regional Environment Programme (SPREP), the proposal incorporates ‘avoid, reduce, restore’ steps to reduce environmental impacts and strengthen community ownership. (SPREP 2018). SPREP describes how the proposal will 1) avoid exploration on parts of the resource area with sensitive wildlife, 2) reduce impacts by implementing a biosecurity policy to limit invasive species and 3) restore areas to allow for stable vegetation. (SPREP 2018, 3).

Development finance can play an important role in integrating the mitigation hierarchy framework within national ESIA systems. Writing for the IAIA website, Bice, a former president of IAIA noted that the IFC Performance Standards should contribute to more widespread application of the mitigation hierarchy. (Bice 2016). Expanding the application of the ESF is another strategy to catalyze adoption in developing countries.

The use of offsets within national systems is inconsistent, but timing and capacity appear to be key factors. A 2018 article in the *Environmental Impact Assessment Review* summarizes experiences around biodiversity offsets, stating that there is “a lack of consensus about when biodiversity offsets should be formally introduced into the EIA process.” (de Witt et al. 2018, 1). Studying five projects in South Africa, the authors conclude that timing and capacity are key factors. While offsets should be a last resort within the mitigation hierarchy, discussion of them should begin early within the ESIA process. (de Witt et al. 2018, 2). Ultimately, capacity is a critical variable, with the authors stating that the “real issue is therefore less about how and when offsets are introduced to the EIA process, and more about the timing of the involvement of biodiversity specialists in the EIA process.” (de Witt et al. 2018, 10).

Even where the mitigation hierarchy framework is used, effective implementation is challenging. ESMPs, SIMPs and analogous tools are key sites for integration

of the approach of the mitigation hierarchy. (Glasson and Therivel 2019, 140). As described in Chapter 3, implementation challenges undermine these plans and by extension effective implementation of the mitigation hierarchy framework.

4.7. Emerging Risks and Impacts

National ESIA systems are increasingly being called on to integrate new perspectives and analyze new sources of risks and impacts. Among the emerging areas confronting national systems are civic space, climate change and new technologies. This section will explore literature documenting experience with such emergent themes and new approaches.

Civic Space

Effective national ESIA systems rely on active participation of affected groups. Yet in many parts of the world, active participation in environmental and social governance is becoming more challenging. Closing civic space impacts how civil society groups can participate in national assessment processes and makes it difficult for decision makers to assess costs and benefits in fully informed ways. Box 18 describes how NGOs have argued that the Government of Austria has sought to limit participation of civil society groups in the national ESIA system. Restrictions on civil society need not target the ESIA process specifically to hinder

Box 18. Shrinking Civic Space Within EIA in Austria

According to Friends of the Earth Europe (FOEE), the Government of Austria has restricted opportunities for civil society groups to participate in EIA processes. The FOEE case study suggests that a change of government in 2018 brought about changes to the national EIA process. As part of a broader effort to reduce participation and the role of NGOs, FOEE suggested that the government targeted the ESIA process. The government initiated requirements that any organization wanting to engage the EIA process would need to have at least 100 members. Organizations were required to submit lists of the names and addresses of members to a designated solicitor, which raises concerns of reprisal. (FOEE 2019).

participation. The 2018 UN Secretary General's report, for example, documented increases in intimidation and reprisals targeting groups working on environmental issues. (UNSG 2018, paras. 21-31). Other groups are also targeted, including people with disabilities and lesbian, gay, bisexual, transgender, and questioning (or queer) minorities. (UNSG 2018, paras. 27-31).

Participation in environmental and social decision making can be the site of criminalization and violence. In March of 2020, the World Bank affirmed its Commitments Against Reprisals, stating that “we do not tolerate reprisals and retaliation against those who share their views about Bank-financed projects.” (World Bank 2020a). This position is echoed within the World Bank's 2020 Staff Code of Ethics, which states that “The WBG does not condone retaliation, which is defined as any form of retribution or threat of retribution taken against an individual who engages in one of the three following protected activities: reports an allegation of misconduct ... [or] cooperates with or provides information in a related investigation...” (World Bank 2020b, 12). National ESIA systems can be sites for sharing perspectives. The World Bank has multiple resources and tools to combat reprisals, including the ESF, as well as related grievance mechanisms and the Inspection Panel. Good practice within the World Bank suggests all of these tools, as well as project-specific engagement, are important to ensure meaningful participation within national ESIA systems.

The last decade has also seen expanding use of human rights assessment alongside and within environmental and social assessment, particularly for private sector lending. The establishment of the UNGPs in 2011, which apply to sovereign countries and private sector enterprises, marked a shift in how industry considers human rights impacts of its operations. The UNGPs identify a range of potential human rights impacts, all of which should be accounted for within project operations. (Glasson and Therivel 2019, 264-270). In 2013, the global oil and gas industry association for environmental and social issues and The Danish Institute for Human Rights co-produced a widely cited report that took stock of how human rights assessment could be integrated within environmental and social impact assessment functions. In 2013 the World Bank published a literature review, commissioned by the Nordic Trust Fund, on human rights impact assessments and how they are different from other forms of impact assessments. (World Bank 2013, Chapter 4).

Climate Change

National systems are increasingly integrating analysis of climate change dynamics into their ESIA practice. In 2013, the EC issued comprehensive guidance and recommendations to EC member states on how to incorporate climate and biodiversity impacts within existing legal requirement for EIA. (EC 2013). The EC guidance followed from a 2009 review by the EC EIA directive which concluded that European countries were not sufficiently incorporating climate change into their EIA practice. (Glasson and Therivel 2019, 268). The EC guidance builds on guidance from the OECD, which also noted limited application of climate change analysis in national systems for ESIA. (Agrawala 2010). Writing for OECD in 2010, Agrawala and co-authors suggested that despite the development of numerous risk assessment tools in the climate change community, few recommendations and guidelines had been developed specifically for proponents, regulators and communities' use in project ESIA settings. (Agrawala 2010, 3). Following the OECD and EC, IEMA, the UK based impact assessment network, also issued their own guidance in 2015. (IEMA 2015). Integration of climate analysis into ESIA systems offers concrete opportunities to advance climate and biodiversity objectives while also strengthening the reputation and climate resilience of the project, among other benefits. (EC 2013, 14).

The World Bank ESF calls climate change “a fundamental threat to development in our lifetime” and seeks to ensure that World Bank-financed projects “reduce their impact on the climate by choosing alternatives with lower carbon emissions.” (World Bank 2017, Vision, para. 2). The ESF Policy defines environmental risks and impacts as including “those related to climate change.” (World Bank 2017, Policy, para. 4). It also requires Borrowers to assess climate change risks and impacts. (World Bank 2017, ESS1, para. 35).

Literature advises that climate change analysis should be incorporated throughout the national ESIA process. Box 19, below, describes strategies to incorporate climate analysis at each stage of the ESIA process developed by the EC. The 2016 *Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment* recommends that climate change and biodiversity considerations should be incorporated into “plans, programmes and projects implemented across the EU.” (EC 2013, 3). The Kenya Climate Change Act from 2016 also requires the coordinating institution to

integrate climate risk and vulnerability assessments into all impact assessment undertaken by lead agencies. (UNEP 2018, 45).

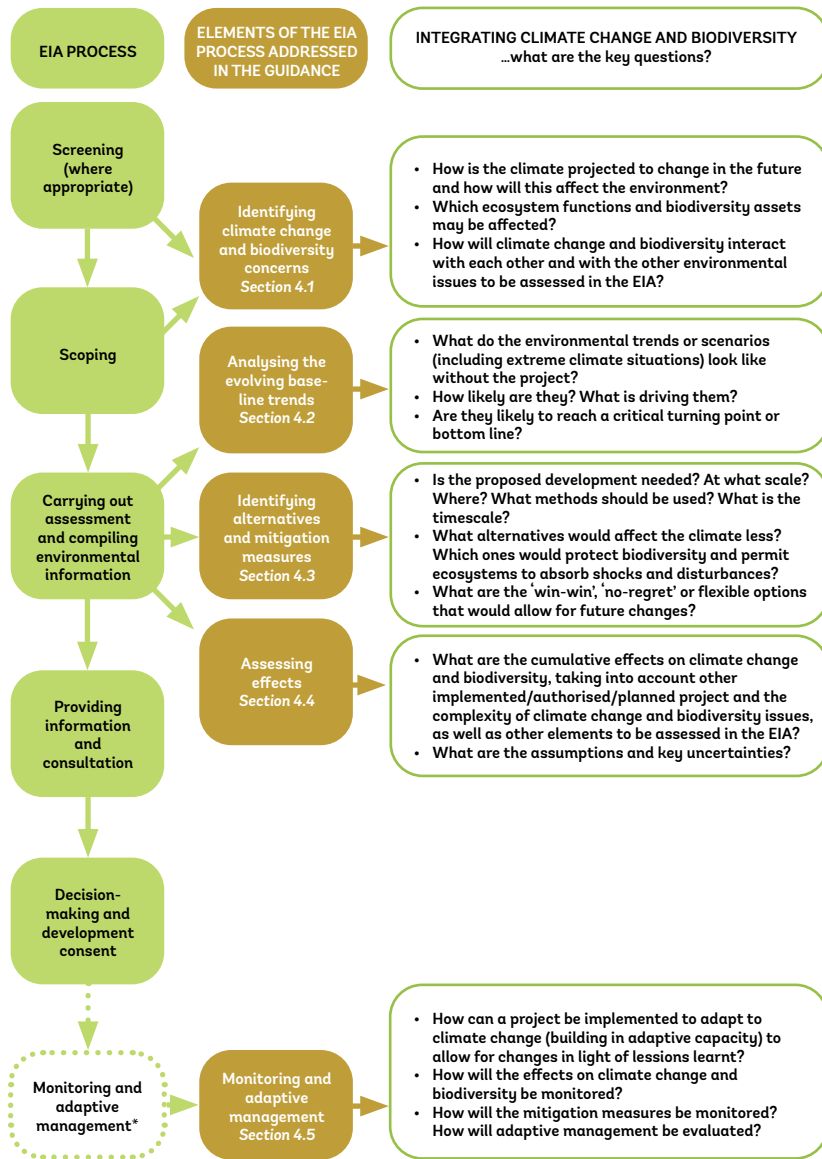
Climate impact analysis has been challenging to integrate into ESIA for a number of reasons. First and foremost, ESIA processes have been criticized for failing to adequately capture cumulative impacts. Capturing cumulative impacts is challenging in the context of climate change where a single project is inevitably one contributor to overall changes. (Glasson and Therivel 2019, 268). Others note that climate change impacts

manifest over periods of time which are longer than project timelines. Project ESIA have, as a result, struggled to analyze interrelationships between a specific project and longer-term climate factors. (Glasson and Therivel 2019, 268).

The OECD, EC and IISD studies, which are a few years old, found limited integration of climate analysis into actual project ESIA. (IISD 2016a). The authors point to Australia, Canada, and the Netherlands, and small island states from the Caribbean and the Pacific (Agrawala 2010, 33), Kenya (UNEP 2018, 45) and the

Box 19. EC Climate Review in EIA

The EC has issued extensive guidance on strategies to incorporate climate review into EIA. *Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment* recommends supporting participatory processes and incorporating climate analysis at the early stage of the EIA process. (EU 2013b, 9-10). The Guidance identifies tasks including: i) identifying climate change and biodiversity concerns, ii) analyzing evolving baseline trends, iii) identifying alternatives and mitigation measures, 4) assessing effects and 5) adaptive management and monitoring. (EU 2013b, 27). Climate analysis should be used across core ESIA functions as visualized below:



Source: EU (2013b), 27.

*Monitoring is not obligatory under the EIA Directive, but is nevertheless used in some Member States.

EC (EC 2013) as places integrating climate analysis. Glasson and Therivel cite lessons from a review of ten United Kingdom transport ESIA, which found that the ESIA often discussed vulnerability of the project to climate risks but failed to offer detailed mitigation and adaptation measures. (Glasson and Therivel 2019, 268, citing Hands and Hudson 2016).

Other Emerging Issues

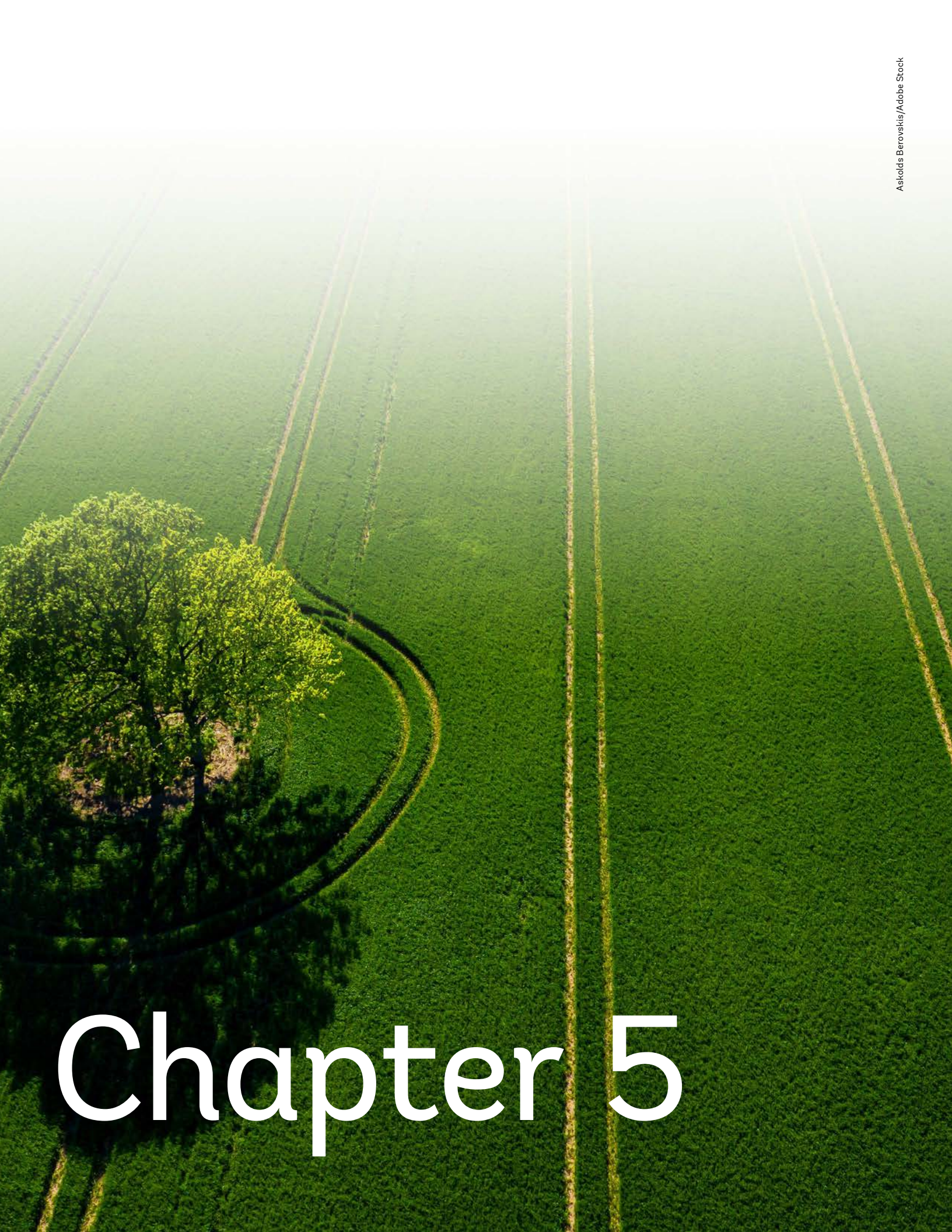
National systems for ESIA are increasingly being asked to utilize new tools and assess new forms of risk. New technologies and methodologies, such as remote sensing and machine learning, have transformational potential for national systems for ESIA. While this literature review did not include a comprehensive assessment of how new technologies might improve current assessment and management methods, the IAIA convened discussion on emerging technologies and impact evaluation in 2018. (IAIA 2018). Emerging data protection and privacy requirements, including the EU's General Data Protection Regulation, may also affect the handling of personal data in the context of national systems for ESIA. Furthermore, there is an emerging debate about the role of ESIA and broader impact assessment for emerging technologies, including artificial intelligence and machine learning. (Raab 2020; Hsieh 2009).

In addition to the key design features identified for this Review, numerous additional areas are worthy of further research and engagement. These topics include:

- **Adaptative management:** Surveying effective

practices in adaptative management across country systems.

- **Benefit-sharing agreements:** Documenting recent efforts to obtain the consent of project-affected communities and mutually agree to an impacts and benefits agreement (or community development agreement).
- **Corruption:** Corruption's relevance to development, the risks it poses to projects, and its relation to ESIA systems.
- **Decentralized ESIA arrangements:** An examination of ESIA systems in federal systems, and the respective roles of national and subnational government entities.
- **Governance and effectiveness:** Further analysis of governance arrangements, political will and state capability could help strengthen ESIA implementation.
- **Independence:** Additional analysis of possible institutional arrangements and factors to maximize the independence of the ESIA system.
- **Procurement and financing:** The role of procurement, contractor arrangements and financing (including staffing and retention) in enhancing elements of ESIA systems.
- **Technology:** The potential of new and disruptive technologies (e.g. data mining, geographic information systems, drones, modeling and simulation, web-based grievance redress mechanisms, technology based governance and economic management systems) to enhance national ESIA system effectiveness, particularly in the context of pandemics and fragile settings.



Chapter 5

Chapter 5. Conclusion

This Literature Review found extensive commonalities as well as important areas of divergence in academic and practitioner literature focused on national systems for ESIA. This concluding chapter begins by assessing the state of the literature before summarizing key findings from the literature regarding principles, core functions, and select design elements of ESIA systems. This chapter concludes by making recommendations for possible engagement by the World Bank Group to support Borrower countries' efforts to strengthen national systems for ESIA.

5.1. Findings on Scope and Nature of National Systems for ESIA

The Review finds significant consensus on the core principles and functions of national ESIA systems.

Over the last 30 years, the field of environmental impact assessment has coalesced around a number of key principles that inform ESIA, including adaptive, participatory and accountable assessment and management of impacts. These principles continue to guide efforts to strengthen ESIA systems. Similarly, literature describes many of the core functions of ESIA systems as broadly consistent, such as screening, impact assessment, and monitoring, with some acknowledged differences in approach and emphasis.

Areas of divergence also emerge in the literature, including the ways in which the literature recommends accounting for social impacts, effectively and adaptively managing risk and enabling the participation of affected communities. Some literature suggests that social risks should be incorporated through national ESIA systems, whereas some literature suggests there are particularities in social risk that are best assessed and mitigated with complementary strategies. Other literature finds ESIA systems to be overly fixed as a regulatory decision for project approval and not sufficiently focused on adaptive management and implementation monitoring. Finally, while there is general agreement that public participation in ESIA processes is important, there is significant divergence in what it should entail. The literature identifies a wide spectrum of activities to enable meaningful participation, including increasing transparency, access to information building capacity and providing independent support to project-affected communities.

This Review also finds gaps in the literature focused on ESIA. ESIA literature tends to place emphasis on the technical aspects of ESIA and comparatively less emphasis on the overall effectiveness of national systems. The literature broadly recommends that national systems for ESIA should be rooted in countries' broader governance and decision-making structures. However, there is relatively sparse literature that assesses the strategies and approaches policy-makers can take to concretely strengthen ESIA effectiveness. Relatedly, there are gaps in the literature on strategies for financing effective and efficient national ESIA systems; the economics of the efficiency or lack of efficiency of these systems; and on the ability of ESIA systems to help countries achieve broader goals, such as advancing regulations that enhance business and investment activities, climate resilience or social inclusion.

Findings on Principles and Core Functions of National Systems for ESIA

Extensive literature analyzes principles and core functions of national systems for ESIA. This Review reveals a mix of guidance and findings from multilateral organizations, practitioner reflections and academic research. As summarized below, the literature offers insights on the principles (discussed in Chapter 2), legal frameworks (Chapter 3.1), functions (Chapter 3.2) and financing (Chapter 3.3.) for national ESIA systems. It also reveals several important trends.

Principles: Literature identifies core principles for environmental and social impact assessment that should guide national systems for ESIA. These principles focus primarily on the values and principles underpinning the process of ESIA assessment and management as opposed to the broader national systems. Nonetheless, the principles identified in the literature offer important perspective for strengthening national ESIA systems. As summarized in Table 4 (Chapter 2), these core principles for ESIA recommend systems that are predictable, practical, participatory, transparent and accountable, among other principles. Principles focused on social impact assessment are more clearly rooted in international and regional legal obligations and are arguably more values-oriented than the international EIA principles. They include, for example, references to equity, fairness, and inclusion.

Legal frameworks: Literature explores States' obligations to conduct ESIA and analyzes the legal frameworks that govern national systems for ESIA. Literature explores the range of international, regional and national legal norms that require countries to develop and implement national systems for ESIA. Additionally, literature assesses the ways in which national systems are most effectively rooted in national legal frameworks. Regional or global standards, for example the EC EIA Directive and the UNECE Espoo Convention, set out requirements for national ESIA systems. Beyond legal norms, there are additional international resources that offer comparative analyses of elements of legal frameworks for national systems for ESIA. The ESY Map Tool is an important new effort to assess key functions and elements of national ESIA systems through an inclusive, multi-stakeholder process. (NCEA 2019).

Core functions: Considerable literature focuses on the core functions of national systems for ESIA. Core functions of a national system for ESIA are typically described as including the following: screening; scoping and preliminary assessment; impact assessment, mitigation and management; the impact assessment report and management plan, review, decision making and licensing; adaptive management; and follow-up, monitoring and auditing.

Screening and scoping: Literature suggests that screening and scoping are essential to identify and prioritize environmental and social assessment and management for projects with potentially significant impacts. This is critical for ensuring that the ESIA process is proportionate to a project's anticipated impacts. Failure to effectively screen projects can overload national systems and may fail to allocate limited ESIA resources towards projects with potentially significant impacts. Literature suggests that effective screening can deliver environmental and social mitigation at a comparatively low cost.

Adaptive management: Literature explores how national ESIA systems can better deliver adaptive management and compliance monitoring. Some authors critique ESIA as being too focused on project approval (or rejection) as opposed to ongoing, adaptive and participatory management of environmental and social impacts. Within the literature, there is considerably less focus on how national systems of ESIA can concretely deliver better ongoing assessment and

management. This is an area that SIA literature has explored more extensively, however, which appears to be helping to catalyze further focus on this aspect within ESIA. The World Bank's ESF places considerable emphasis on adaptive management tools, including the ESCP, which documents the Borrower's commitment to develop, implement and update instruments, for example, ESMPs. The IFC Performance Standards similarly incorporate adaptive management requiring engagement "throughout the life of the project." (IFC 2012, 1). There is increasing agreement that adaptive management tools and commitments should be integrated as legal elements of licensing conditions.

Follow-up, monitoring and auditing: Literature identifies follow-up and monitoring of license compliance as major shortcomings of national systems for ESIA. For example, a World Bank study found that most Latin American countries "rarely monitor the action's impacts after the corresponding license or permit has been issued." (Acerbi et al. 2014, 4-5). A 2020 report from IDB and the WJP on Environmental Governance Indicators for Latin America and the Caribbean similarly states that inspections, monitoring and evaluation are among the weakest elements of environmental rule of law. (IDB & WJP 2020, Figure 2). In Southeast Asia, a 2018 comparative review of national systems found that while many countries' legislation included requirements for an EIA follow-up, the implementation and revision of mitigation plans was a significant shortcoming. (Swangjang 2018, 39). Regulators bear the primary responsibility for follow-up and ensuring effective monitoring and auditing is carried out; however, the public, proponent and civil society have key roles to play as well. (IAIA 2007).

Financing national systems: Financing models for national systems for environmental and social impact assessment are relatively understudied. The NCEA has produced the most comprehensive global guide to ESIA funding. This Guide suggests that the fundamental question for ESIA system financing is "who should bear the burden of paying for environmental safeguards and pollution control measures?" (NCEA 2015, 6). The NCEA publication explores multiple funding models, including cost recovery (fees are charged to the proponent for operational, financial and environmental costs), the polluter pays principle (the company should pay for preventing and controlling social or environmental impact), the beneficiary pays principle (person using the resource should pay), the

precautionary principle (with uncertain impacts the proponent is required to assess and compensate impacts on a regular basis) and the integrity principle (that government and regulators should not be funded directly by proponents). (NCEA 2015, 7-13). Some academic and practitioner literature questions whether models that enable proponents to directly fund critical components of assessment and monitoring presents inherent conflicts of interest. Literature is increasingly exploring strategies to help ensure that funding for essential ESIA implementation functions, such as adaptive management, monitoring and environmental restoration, can be more predictable.

Findings on Select Design Features of National Systems for ESIA

The Review draws insights from ESIA literature on design features common to World Bank engagements and that promote ESIA system effectiveness.

This Review explores literature that responds to the following aspects: i) how national systems can effectively account for and manage social impacts; ii) how national environmental and social systems can advance effective participation; iii) how national systems can strengthen competent, independent and accountable review and consideration of projects; iv) how political economy analysis might improve the effectiveness of national systems for ESIA; v) to what extent national systems incorporate the mitigation hierarchy as envisioned by the ESF; vi) whether national systems incorporate transboundary impacts in practice; and vii) how national systems assess and manage emerging risks and impacts such as climate change and civic space.

Social risks and impacts: Most academic and practitioner resources agree that national systems for ESIA should incorporate both social and environmental risks and impacts. However, literature identifies different strategies and approaches. Some EIA-focused practitioner literature suggests that social risks can be—and often already are—effectively managed through relatively minor changes in definition and approach within EIA regulatory systems. Others recommend a more comprehensive overhaul of approach and strategy. This literature suggests that social impacts can occur outside the EIA regulatory cycle and that there needs to be greater emphasis on community agency and consent. Literature identifies new regulatory SIA models, like the Australian experi-

ences described in Box 9 (Chapter 4), as one strategy to better manage social risks. Increasing coordination between environmental and social departments within national systems is another recommended approach. Project-based management of risk, as currently utilized by some companies, the Performance Standards and ESF, offers another strategy to assess and manage social risks. Whatever approach or combination of approaches is used within a national system, the literature generally accepts that social risks may appear outside of a traditional ESIA process and, as such, coordination and integrated strategies may be needed.

Adaptive management: Literature recommends strengthening strategies to adaptively manage projects.

Monitoring, auditing and adaptive management of ESIA commitments and license conditions are all referenced as weak elements of national systems that undermine effectiveness. (SAEIA 2020, 18). Literature explores the role of ESCPs, ESMPs and other flexible strategies as key tools to strengthen management of environmental and social risks and impacts. Literature recommends that the legal basis for adaptive management tools needs strengthening in many national systems. The World Bank and UNEP, for example, have both found that weak, ambiguous or voluntary criteria and requirements are a constraint to effective follow-up and management. (World Bank 2002, 24; UNEP 2018, 73). Effective adaptive management should be a shared responsibility, and literature recommends that the regulator, project proponent, financier, affected communities and the public all should commit to strengthening adaptive management.

Private sector and MDB standards: ESIA literature reviews the relationship between national systems for ESIA and private sector and multilateral development bank standards.

Development banks, other international and regional institutions, and private sector actors often have their own standards alongside those of national systems. The World Bank, IFC, OECD, UN agencies, other multilateral development banks and regional systems all have developed environmental and social risk standards. Alongside these standards and policy, broad industry commitments as well as company-specific protocols are also increasingly relevant. These international standards, principles and guidelines are generally understood to advance a reinforcing set of national requirements around environmental and social impacts. Some liter-

ature recommends better alignment of national systems for ESIA with international standards to improve outcomes.

Stakeholder participation: Literature highlights the importance of stakeholder participation within ESIA systems; however, definitions, approaches and requirements differ across national systems.

Improving stakeholder participation is one of the most common recommendations for strengthening the performance of national systems for ESIA. The ESF and Performance Standards both focus, for example, on strategies to enable effective stakeholder consultations in World Bank Group project financing. The definition of, and approach to, consultation and participation varies considerably in literature. Through ESS10, the World Bank “recognizes the importance of open and transparent engagement between the Borrower and project stakeholders as an essential element of good international practice” and details requirements for engagement throughout the project lifecycle. (World Bank 2017, ESS10 paras. 1, 6-9). In broader ESIA literature, however, participation can mean everything from sharing information with affected communities to ongoing and active participation at each stage of a project, from screening through operation. The literature points to examples of emerging good practice, such as national systems and proponents offering capacity building and designated funding to communities for active participation within ESIA processes. The extent to which participation or consultation includes the ability (or even the guarantee) to influence project design and alternatives continues to vary considerably.

Expertise, independence and accountability: Literature identifies numerous ways for national systems for ESIA to strengthen competent, independent and accountable review, consideration and monitoring of projects. The literature identifies certification of environmental and social consultants and firms as an important strategy to uphold basic standards. In 2014, for example, the EC required proponents to ensure that ESIA reports were submitted by experts with “sufficient expertise.” (IAIA 2017, 23). Professional literature suggests that this change is driving expansion of national certification schemes in Europe. (IAIA 2017, 23). Other literature, for example practitioner literature from Canada, suggests that competence and accountability are best advanced through democratic accountability, where project approval decisions

are made by elected officials. (Joseph et al. 2015, 245). Literature further suggests that transparency is foundational for maintaining accountability. Key documentation within national ESIA systems, including decisions, should be made public.

Political economy and national system effectiveness: This Review finds sparse literature assessing how national systems for ESIA best connect with broader efforts to improve governance.

National systems for ESIA can be a key site where governments, project proponents and affected communities make determinations of benefits and costs associated with development. Some literature on ESIA effectiveness does explore how ESIA systems align with broader political decision making; however, in 2018 Loomis and Dziedzic found that there are “no studies that empirically measure the direct influence of EIA on decision-making, especially behavioral changes resulting from the preventative nature of EIA.” (Loomis and Dziedzic 2018, 34). Alan Bond, the editor of *Environmental Impact Assessment Review*, and colleagues similarly ask why EIA remains a popular regulatory tool when there is little empirical evidence that it is “delivering evidence-based, accountable, decision-making.” (Bond et al. 2020, 7). Some recent literature calls for a greater focus on understanding the political economy of implementation of national systems for ESIA. Such efforts could help strengthen the evidence base for how national systems for ESIA can influence policy-making and deliver the environmental and social benefits they were designed to achieve.

Transboundary risks and impacts: Procedures to account for transboundary impacts are increasingly recognized as an essential element of effective national ESIA systems.

Regional approaches to transboundary collaboration vary and there has been increased attention to transboundary ESIA following the International Court of Justice’s decision in 2010 (*Argentina v. Uruguay*) that recognized an obligation under customary international law to assess transboundary impacts. (ICJ 2010). Literature suggests that transboundary ESIA raises unique challenges and several regional systems and agreements have clarified minimum standards.

Mitigation hierarchy: national ESIA systems are increasingly being called upon to advance the mitigation hierarchy. The mitigation hierarchy is central to the World Bank’s strategy in the ESF; however, lit-

erature finds that most national ESIA systems have not yet fully integrated the approach of the mitigation hierarchy.

Emerging risks, including climate change: National ESIA systems are being called upon to integrate new perspectives and analyze emerging sources of risks and impacts. Such risks include climate change, civic space, new technologies and other areas. The OECD and EC recommend, for example, the consideration of climate change impacts and resilience within national systems for ESIA. Guidance from the EC released in 2016 is among the most developed recommendations for how to include climate change analysis within national ESIA systems. However, to date literature finds that climate change impacts and resilience have been difficult to integrate into ESIA in many contexts. Similarly, literature explores the importance of securing civic space within effective national systems for ESIA. Literature on broader emerging sources of risk was outside the scope of this Review, but priority areas for further research are included as part of the recommendations in section 5.2.

5.2. Recommendations for the World Bank Group

This section offers recommendations for how the World Bank Group can support efforts to strengthen national systems for ESIA. These options, summarized in Table 3 in the executive summary, are focused on additional areas for research, the development of knowledge products and technical, operational and financial assistance to Borrower countries to help strengthen their national systems for ESIA.

In particular, the Review identifies possible additional engagements by the World Bank Group across three themes: i) Strengthening a Systems Approach to National Systems for ESIA, ii) Improving Core Functions of National Systems for ESIA and iii) Accounting for Emerging Risks and Practices in National ESIA Systems. As the introduction and methodology explain, further engagement between World Bank teams, Borrower countries and broader constituencies is needed to prioritize areas for engagement among these options.

Strengthening a Systems Approach to National Systems for ESIA

National systems: The World Bank could focus on strengthening the performance of national systems for ESIA, alongside project-specific ESIA for World Bank-financed projects. The World Bank could support research on factors that influence the effectiveness of national ESIA systems. This Review found surprisingly little literature that assesses the extent to which national ESIA systems inform the design and implementation of projects to address their environmental and social impacts. The World Bank Group could expand research and operational capacity building initiatives on the broad range of factors impacting the performance of national systems for ESIA. This could be done in partnership with interested countries, UNEP, other UN agencies, multilateral development banks, NCEA, the academic community, and civil society groups. In turn, relying on these partnerships and an expanding evidence base, the World Bank could better support Borrower countries and civil society partners to conceptualize and implement ESIA system reform, coordination, and capacity building priorities.

Legal frameworks: The World Bank could expand analysis of and support for legal reforms to strengthen national ESIA systems. This Review assessed numerous efforts to document good practices in legal frameworks for national systems for ESIA. The Review found some weaknesses in the legal framework of national systems, including participation, independent financing, and regulatory and contractual obligations for implementation of adaptive management. The World Bank could support efforts to document good practices for legally mandated procedures that effectively deliver the core elements of national systems for ESIA. In turn, the World Bank could also assist Borrower countries in ensuring that these legal systems result in effective implementation and enforcement of sometimes overlooked national system functions, including participation, adaptive management, and monitoring. In the end, legal reforms can help strengthen the basis for participatory, independent, and ongoing adaptive management of projects.

Financial models: The World Bank could strengthen accountable and independent financing of national ESIA systems.

This Review found limited analysis of strategies to strengthen the governance of national systems for ESIA. Accountable and independent financing was found to be a key gap. Additionally, the capacity of regulators as well as the attraction and retention of qualified environmental and social practitioners within governmental institutions are viewed as challenges. The World Bank could leverage its expertise in public financial management, political economy analysis and governance to identify reform processes likely to improve the performance of national systems for ESIA. This could include external and internal activities. Externally, the World Bank could support country efforts to strengthen ESIA system financing and institutional structures. NCEA has done important work around public financial management of national ESIA systems, and the World Bank could explore collaboration with NCEA to build on these efforts. Internally, the World Bank could promote more effective internal coordination among its safeguards, legal, environmental, social, governance, and public financial management teams to provide integrated capacity building to Borrower countries towards enhanced national systems for ESIA. These efforts could serve to deepen understanding of how financing can strengthen ESIA system independence and effectiveness.

Aligning standards: The World Bank could support further research documenting how the different environmental and social assessment and management tools used by international organizations and private sector actors can align to support effective national ESIA systems.

This research could assess the ways in which key standards—from national governments, project proponents, commercial banks, development finance institutions, and civil society—can play complementary roles to improve different aspects of national systems and how these standards might be better coordinated. Standards from a macro-level include, for example, the International Organization for Standardization 14000 family of environmental management standards, the World Bank's

ESF, the IFC's Performance Standards, the World Bank Group Environmental, Health, and Safety Guidelines.⁸ At a micro-level, standards include a range of industry and civil society standards and Good International Industry Practice.⁹

Improving Core Functions of National Systems for ESIA

Adaptive management and monitoring: The World Bank could support efforts to further assess good practices and develop guidance for Borrower countries on implementing effective adaptive management and monitoring within national systems for ESIA.

The World Bank could work with Borrower countries to document effective strategies to strengthen the supervision and management aspects of national ESIA systems. World Bank guidance and capacity building could explore strategies to strengthen independent financing mechanisms for adaptive management and monitoring, incorporate adaptive management commitments into binding licensing conditions, improve federal-state monitoring coordination, and expand community and third-party monitoring strategies. A focus on the implementation of adaptive management and monitoring could help strengthen supervision of agreed-to mitigation measures and conditions and ensure that projected project benefits are realized.

Social and environmental coordination: The World Bank could support research and experimentation to strengthen national ESIA systems' coordinated management of social and environmental impacts.

The World Bank Group could do so by studying integration efforts in particular countries or sectors with a focus on how coordination or integration could be improved. Key research questions might include: What changes could be introduced in ESIA systems traditionally focused on environmental impacts in order to meaningfully address social impacts? What institutional arrangements are most effective in strengthening coordinated or integrated assessment and management of environmental and social impacts? What forms of external support are most effective

⁸ Environmental, Health, and Safety Guidelines (EHSGs) are defined by the ESF as "technical reference documents with general and industry-specific statements of Good International Industry Practice. The EHSGs contain the performance levels and measures that are generally considered to be achievable in new facilities by existing technology at reasonable cost. For complete reference, consult the World Bank Group Environmental, Health, and Safety Guidelines, http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/ehsguidelines." (World Bank 2017, Glossary).

⁹ GIIP is defined by the ESF as "the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of such exercise should be that the project employs the most appropriate technologies in the project-specific circumstances." (World Bank 2017, Glossary).

in strengthening social assessment within country systems? The World Bank, in partnership with Borrower countries, could also identify concrete examples for how to operationalize social and environmental integration. Possible guidance could include guidelines for institutional structures and mechanisms to strengthen sectoral collaboration as well as good practice examples of key operational levers, including terms of reference, tender documents, and budget tools, among others. UNDP and SAEIA have produced important initial research and guidance on health and gender on which the World Bank could build. These efforts could help Borrower countries practically improve social and environmental coordination and integration in their national systems for ESIA.

Meaningful participation: The World Bank could support Borrower country efforts to strengthen meaningful participation in national systems for ESIA. Most national systems have adopted standards around participation, consultation, and civil society engagement, but effective implementation remains a challenge. The World Bank could support country-focused work to operationalize a coordinated and comprehensive approach to supporting participation in national systems for ESIA. Beyond participation in an individual project, reforms could establish comprehensive frameworks for meaningful participation across the national ESIA system. This Literature Review found that national ESIA systems and proponent consultation platforms are turning to new approaches to strengthen meaningful participation, including financing for community and non-governmental organization capacity building, as well as resources for legal, social and environmental advisory services that support informed community participation, particularly for vulnerable and marginalized groups. The World Bank Group could support Borrower country efforts to finance and implement some of these models and others.

Accounting for Emerging Risks and Practices in National ESIA Systems

Climate risks: The World Bank could strengthen assistance to Borrower countries to integrate climate change analysis into national ESIA systems. In the context of the ESF and the Performance Standards, which align with international good practice and require assessment of climate-related risks, the World Bank could extend additional assistance to Borrower countries looking to integrate climate change and cumulative impact analysis into national ESIA systems. The EC guidance is an important existing resource in this regard and could serve as point of departure for further guidance and operational support. (EC 2013).

New technologies: The World Bank could explore the potential for new technologies to strengthen ESIA and national ESIA systems. New technologies and methodologies, such as remote sensing and machine learning, have transformational potential for national environmental and social impact assessment and management systems. This Literature Review did not include a comprehensive assessment of how new technologies might impact current assessment and management methods, and there is a need for more assessment. The World Bank could document recent innovations and adaptations of national systems for ESIA. Such work might be particularly relevant in fragile contexts, where institutional assessment and monitoring capacity may be weaker. New technologies can help strengthen assessment and implementation to maximize the ways in which national systems for ESIA deliver on stated objectives.

This Literature Review did not assess all areas of potential World Bank engagement on national systems for ESIA. As the introduction and methodology describe, consultations among World Bank teams, Borrower countries, and other stakeholders, including civil society and academia, can identify and prioritize additional potential areas of engagement that were largely outside the scope of this Review. Additional engagement areas include the links between national systems for ESIA and corruption, social inclusion and civic space, governance and effectiveness, and procurement and benefit sharing agreements, among others.

References

- Abaza, H.; Bisset, R., and Sadler, B. (2004). Environmental Impact Assessment and Strategic Environmental Assessment: Towards an Integrated Approach, Nairobi: United Nations Environment Program. (UNEP 2004).
- Acerbi, M., Sánchez-Triana, E., Enríquez, S., Tiffer-Sotomayor, R., Gomes Lima, A.L.; Siegmann, K.; Clemente-Fernandez, P.; and Nkrumah, N.E. (2014). *EIA systems in Latin America and the Caribbean*, International Association for Impact Assessment presentation, The World Bank.
- Agrawala S., Matus Kramer, A., Prudent-Richard, G. and Sainsbury, M. (2010). Incorporating climate change impacts and adaptation in Environmental Impact Assessments: Opportunities and Challenges, OECD Environmental Working Paper No. 24, OECD Publishing.
- Appah-Sampong, Ebenezer. (2002). Public hearing within the environmental impact assessment review process, Case Study Supplement to the UNEP EIA Training Resource Manual. 85-91.
- Arce-Gomez, A. et al., (2015). Social impact assessments: Developing a consolidated conceptual framework, Environmental Impact Assessment Review 50 (2015), 85–94.
- Bawole, Nyigmah. (2013). Public Hearing or 'Hearing Public'? An Evaluation of the Participation of Local Stakeholders in Environmental Impact of Ghana's Jubilee Oil Fields. Environmental Management, 51(5).
- Bebbington, A., Franks, D., Davis, R., Kemp, D., Ali, S., & Scurrah, M. (2014). Conflict translates environmental and social risk into business costs. Proceedings of the National Academy of Sciences, 111 (21), 1-6.
- Bice, S. (2017). Three reasons why the mitigation hierarchy matters to impact assessment, <https://www.iaia.org/news-details.php?ID=62>
- Blackmore E.; Bugalski N.; Pred D., (2015). *Following the money: an advocate's guide to securing accountability in agricultural investments*. IIED/IDI, London/Asheville.
- Bond et al., (2020). "Explaining the political nature of environmental impact assessment," *Journal of Cleaner Production* 244.
- Business and Biodiversity Offsets Programme (BBOP). (2016). Planning policies and projects to achieve a net gain of biodiversity: BBOP Vision, Mission, Goals, Strategy, Plan. 2016. Available at: <https://www.forest-trends.org/wp-content/uploads/imported/final-revised-bbop-strategy-20-1-16-pdf.pdf>.
- Cashmore, M. Gwilliam, R., Morgan, R., Cobb, D., and Bond, A. (2004). The interminable issue of effectiveness: substantive purposes, outcomes and research challenges in the advancement of environmental impact assessment theory, *Impact Assessment and Project Appraisal*, 22:4, 295-310. (Bond 2004).
- Centre for Policy Research. (2019). Making the Law Count: Environment justice stories on community paralegal work in India, Research Report.
- Columbia Center on Sustainable Investment (CCSI), Danish Institute for Human Rights, and Sciences Po Law School Clinic. (2017). A Collaborative Approach to Human Rights Impact Assessments, March 2017.
- Commission for Environmental Cooperation (CEC) of North America, The Joint Public Advisory Committee (JPAC), December 20, 2010. http://www.cec.org/files/documents/jpac_advice_council/jpac-advice-11-01-en.pdf. Accessed May 26, 2020.
- Development Bank of Southern Africa and the South African Institute for Environmental Assessment. (2020). Consultation Draft African Environmental Assessment Legislation Handbook (4th Edition) <https://www.dbsa.org/african-environmental-assessment-legislation-handbook>. Accessed March 3, 2022.
- de Witt, Marlene; et al. (2018). Biodiversity offsets in EIA: Getting the timing right, *Environmental Impact Assessment Review* 75 (2019) 1–12.
- Dietz, T. and Stern, P. C. (eds). (2008). Panel on Public Participation in Environmental Assessment and Decision Making, National Research Council.
- Earth Rights. (2016). Environmental Impact Assessment in the Mekong Region, materials and commentary, report.
- Edwards, V. 2013. A Review of the Court of Justice's Case Law in Relation to Waste and Environmental Impact Assessment: 1992-2011 *Journal of Environmental Law*, Vol. 25, No. 3, pp. 515-530
- Environmental Law Alliance Worldwide (ELAW). (2010). Guidebook for Evaluating Mining Project EIAs Guidebook for Evaluating Mining Project EIAs (ELAW 2010).
- Environmental Law Alliance Worldwide (ELAW). (2020). EIA Law Matrix. <https://www.elaw.org/elm>. Accessed February 8, 2022.
- Equator Principles, EP Association Members & Reporting, <https://equator-principles.com/members-reporting/>. Accessed February 7, 2022.

European Commission. (2013). Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment.

European Commission. (2014). Environmental Impact Assessment Directive 2014/52/EU.

European Commission. (2014). Non-financial reporting (NFRD) Directive 2014/95/EU. (EC 2014b).

European Commission. (2017). Environmental Impact Assessment of Projects Guidance on the preparation of the Environmental Impact Assessment Report (Directive 2011/92/EU as amended by 2014/52/EU).

European Commission. (2019). Nature Protection and Environmental Impact Assessment Module 3: Environmental Impact Assessment (EIA) Directive – Overview. December 31, 2019, https://ec.europa.eu/environment/legal/law/2/module_3_2.htm. Accessed May 26, 2020.

European Public Health Association (EPHA) and International Association for Impact Assessment (IAIA). (2019). Consultation Draft: Addressing Human Health in Environmental Impact Assessment.

European Union. (2013a). Guidance on the Application of the Environmental Impact Assessment Procedure for Large-scale Transboundary Projects.

European Union. (2013b). Guidance on integrating climate change into environmental impact assessments.

Franks, D. and Vanclay, F., (2013). Social Impact Management Plans: innovation in corporate and public policy. *Environ Impact Assess Rev.* 43:40–48.

Friends of the Earth Europe. (2019). Thriving Civic Space for Strong European Democracy.

Glasson, J., and Therivel, R., (2019). Introduction to Environmental Impact Assessment Routledge Natural and Built Environment series, 5th edition.

Glucker, A. N., Driessen, P. P.J., Kolhoff, A.; and Runhaar, H.A.C.. (2013). Public participation in environmental impact assessment: why, who and how? *Environmental Impact Assessment Review* 43 (2013) 104–111.

Hasan, A.; et al. (2018). Public participation in EIA: A comparative study of the projects run by government and non-governmental organizations, *Environmental Impact Assessment Review* 72 (2018) 12–24.

Herz, S., La Vina, A., and Sohn, J. (2007). Development without conflict: the business case for community consent.

World Resources Institute. Washington, D.C. <https://www.wri.org/publication/development-without-conflict>

Hsieh, W. (2009). *Machine Learning Methods in the Environmental Sciences: Neural Networks and Kernels*. Cambridge University Press.

Impact Assessment Agency of Canada, Guidance: Public Participation under the Impact Assessment Act, April 26, 2021, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/guidance-public-participation-impact.html#assessment-act/guidance-public-participation-impact.html>. Accessed February 21, 2022.

Impact Assessment Agency of Canada, Indigenous Capacity Support Program, May 11, 2020 (Updated February 1, 2022), <https://www.canada.ca/en/impact-assessment-agency/services/public-participation/funding-programs/indigenous-capacity-support-program.html>. Accessed February 21, 2022. (IAAC 2020a).

Impact Assessment Agency of Canada, 2019-2020 Indigenous Capacity Support Program Funding Allocations, May 11, 2020, <https://www.canada.ca/en/impact-assessment-agency/services/public-participation/2019-2020-indigenous-capacity-support-programfunding-allocations.html>. Accessed February 21, 2022 (IAAC 2020b).

Impact Assessment Agency of Canada, Public Participation: Funding Programs, (Updated January 5, 2022) May 15, 2020, <https://www.canada.ca/en/impact-assessment-agency/services/public-participation/participant-funding-application-environmental-assessment.html>. Accessed February 21, 2022 (IAAC 2020c).

Impact Assessment Agency of Canada, Indigenous Capacity Support Program National Program Guidelines (Updated February 17, 2022), June 8, 2020, <https://www.canada.ca/en/impact-assessment-agency/services/public-participation/guidelines-indigenous-capacity-support-program.html>. Accessed February 21, 2022 (IAAC 2020d).

International Association for Impact Assessment (IAIA). (2006). *Public Participation: International Best Practice Principles*, Special Publication Series No. 4.

International Association for Impact Assessment (IAIA). (2007). *EIA Follow-up Best Practice*.

International Association for Impact Assessment (IAIA). (2010). *Guideline Standards for IA Professionals*.

International Association for Impact Assessment (IAIA). (2015). *Social Impact Assessment: Guidance for Assessing*

and Managing the Social Impacts of Projects. International Association for Impact Assessment (IAIA). (2017; updated 2019). Compendium of National IA Professional Recognition Schemes: Individual Environmental Impact Assessment (EIA) Practitioners (IAIA 2017).

International Association for Impact Assessment (IAIA). (2018). A Rapid Tour of Emerging Technologies and Impact Assessment, <https://www.iaia.org/webinar-details.php?ID=18>.

International Association for Impact Assessment (IAIA). (2020). Webinar on Compliance and Enforcement of ESIA: Requirements, Commitments and Related Permits, June 24, 2020, <https://www.iaia.org/downloads/EnforcementandComplianceWebinar.pdf>. Accessed November 21, 2020.

International Association for Impact Assessment (IAIA) and Institute of Environmental Management & Assessment (IEMA). (1999). Principles of Environmental Impact Assessment Best Practice. Fargo, ND: IAIA.

International Court of Justice. (2010). Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment of 20 April 2010.

International Finance Corporation (IFC). (2012). Performance Standards on Environmental and Social Sustainability.

International Institute for Sustainable Development (IISD). (2016). Climate Change Adaptation and EIA (IISD 2016a).

International Institute for Sustainable Development (IISD). (2016). Environmental Impact Assessment Training Manual, IISD training resource (IISD 2016b).

International Institute for Sustainable Development (IISD). (2019). Legal Framework of Environmental and Social Impact Assessment in the Mining Sector.

Inter-American Development Bank and the World Justice Project. (2020). Environmental Governance Indicators for Latin America and the Caribbean (IDB & WJP, 2020). <https://publications.iadb.org/publications/english/document/Environmental-Governance-Indicators-for-Latin-America--the-Caribbean.pdf>. Accessed February 22, 2022.

Institute of Environmental Management & Assessment (IEMA). (2011). The state of environmental impact assessment practice in the UK. Grantham: IEMA.

Institute of Environmental Management & Assessment (IEMA). (2015). Environmental Impact Assessment Guide to Climate Change Resilience and Adaptation November 2015, IEMA.

Institute of Environmental Management & Assessment (IEMA). (2016). Environmental Impact Assessment Guide to: Delivering Quality Development. Grantham: IEMA. Joseph, C., Gunton, T., and Rutherford, M. (2015). Good practices for environmental assessment, *Impact Assessment and Project Appraisal*, 33:4, 238-254.

Kemp, D., and Vanclay, F. (2013). Human rights and impact assessment: clarifying the connections in practice, *Impact Assessment and Project Appraisal*, 31:2, 86-96.

Kolhoff, A. J., Driessen, P. P.J.; Runhaar, H. A.C. (2018). Overcoming low EIA performance: A diagnostic tool for the deliberate development of EIA system capacities in low and middle income countries, *Environmental Impact Assessment Review*, volume 68, pp. 98-108.

Lai, J.Y., and Hamilton, A. (2020). For whom do NGOs speak? Accountability and legitimacy in pursuit of just environmental impact assessment, *Environmental Impact Assessment Review*, volume 82, pp.1-14.

Laurance, W. and Salt, D.. (2018). Opinion: Environmental Impact Assessments Aren't Protecting the Environment, *Enisa*, <https://ensia.com/voices/environmental-impact-assessment/>. Accessed February 21, 2022.

Loomis, J. J.; and Dżiedżic, M. (2018). Evaluating EIA systems' effectiveness: A state of the art, *Environmental Impact Assessment Review* 68 (2018) 29-37.

McCullough, A. (2016). Advancing the governance of extractives at the local level: Towards politically smart support, *Overseas Development Institute Briefing*.

Mekong Partnership for the Environment. (2017). Making the Case: Effective Public Participation is Good for Business in the Mekong Region. (Mekong Partnership 2017).

Mekong River Commission. (MRC) (1995). Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin, 5 April 1995.

Mekong River Commission. (MRC) (2018). Guidelines for Transboundary Environmental Impact Assessment in the Lower Mekong Basin, Working Document. Vientiane.

Morrison-Saunders, A., Baker, J., and Arts, J. (2003). Lessons from practice: towards successful follow-up, *Impact Assessment and Project Appraisal*, 21:1, 43-56.

Mozambique, Government of. (2015). The Decree on Environmental Impact Assessment (54/2015) (Decree 2015), <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC174566> (in Portuguese, accessed June 20, 2020).

Netherlands Commission for Environmental Assessment (NCEA). (2015). Financing EIA: Funding Governmental Tasks in Environmental and Social Impact Assessment and Environmental Approval.

Netherlands Commission for Environmental Assessment (NCEA). (2017). A Systems Approach to ESIA Effectiveness.

Netherlands Commission for Environmental Assessment (NCEA). (2019). ESY-MAP ESIA Mapping Tool. Available at <https://www.eia.nl/en/our-work/capacity-development/esy-map>. Accessed March 7, 2022.

Netherlands Commission for Environmental Assessment (NCEA). (2019). Mozambique ESIA Profile, August 13, 2019, <https://www.eia.nl/en/countries/mozambique/esia-profile>. Accessed June 22, 2020.

Netherlands Commission for Environmental Assessment (NCEA). (2020). ESIA/SEA Per Country. Available at <https://www.eia.nl/en/countries>. Accessed March 7, 2022.

Netherlands Commission for Environmental Assessment (NCEA). (2020). Unpublished ESY-MAP: A diagnostic tool for assessing the quality of a national Environmental and Social Impact Assessment (ESIA) system. Hand-out Detailed Scan. January 2020.

Nielsen, E. H., Christensen, P., and Kørnøv, L. (2005). "EIA Screening in Denmark: A new Regulatory Instrument?" *Journal of Environmental Assessment Policy and Management*. Vol. 7, No. 1 (March 2005), pp. 35-49

Organisation for Economic Cooperation and Development (OECD). (1992). "Good Practices for Environmental Impact Assessment of Development Projects." Paris: OECD Development Assistance Committee. Guidelines on Environment and Aid No. 1.

Organisation for Economic Cooperation and Development (OECD). (2004). "Indirect Expropriation" and the "Right to Regulate" in International Investment Law", OECD Working Papers on International Investment, 2004/04, OECD Publishing. <http://dx.doi.org/10.1787/780155872321>

Organisation for Economic Cooperation and Development (OECD). (2011). Guidelines on Multinational Enterprises.

Organisation for Economic Cooperation and Development (OECD). (2015). Environmental Performance Review: The Netherlands.

Organisation for Economic Cooperation and Development (OECD). (2020). Recommendation of the Council on the Assessment of Projects, Plans and Programmes with Significant Impact on the Environment, OECD/LEGAL/0172.

Ortolano, L.; Shepherd, A. (1995). "Environmental Impact Assessment: Challenges and Opportunities." *Impact Assessment*, 13:1, 3-30.

Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015.

Parsons, R., Everingham, J., and Kemp, D. (2018). Developing social impact assessment guidelines in a pre-existing policy context. *Impact Assessment and Project Appraisal* 37(2) 1-10.

Raab, C. D. (2020). Information privacy, impact assessment, and the place of ethics. *Computer Law & Security Review*, Volume 37, July 2020.

Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean Escazú. (2018). 4 March 2018.

Ribot, J. (2004). *Waiting for Democracy: The Politics of Choice in Natural Resource Decentralization*. World Resources Institute: Washington DC.

Rio Declaration on Environment and Development. (1992). A/CONF.151/26, vol. I, adopted by the United Nations Conference on Environment and Development on 14 June 1992.

Rocha, C. P. F., and Fonseca, A. (2017). Simulations of EIA screening across jurisdictions: exposing the case for harmonic criteria?, *Impact Assessment and Project Appraisal*, 35:3, 214-226.

Rojas, G. A., Iza, A. O., and Bonilla, M. C. (2006). *Evaluación de Impacto Ambiental Transfronteriza en Centroamérica. Lineamientos Generales*. UICN-Mesoamérica.

Sadler, B. (1996). *Environmental Assessment in a Changing World: Final Report of the International Study of the Effectiveness of Environmental Assessment*. Ottawa: Canadian Environmental Assessment Agency (The International Effectiveness Study).

Sadler, B. and McCabe, M., eds. (2002). *Environmental Impact Assessment Training Resource Manual 2nd Edition*, Nairobi: United Nations Environment Program (UNEP).

Sano, D., Matsumoto, I., Urago, A., Takahashi, Y., and Genjida, N. (2016). *Strengthening EIA in Asia*. Institute for Global Environmental Strategies (IGES).

Schrage, W. and Bonvoisin, N. (2008). Transboundary impact assessment: frameworks, experiences and challenges, *Impact Assessment and Project Appraisal*, 26:4, 234-238.

Simpson, N. P. and Basta, C. (2018). Sufficiently capable for

effective participation in environmental impact assessment? *Environmental Impact Assessment Review* 70, 57–70.

Sinclair, A.J., Doelle, M. and Gibson, R. (2021). Next generation impact assessment: Exploring their key components. *Impact Assessment and Project Appraisal*, 40:1.

South Africa Department of Environmental Affairs and Tourism. (2004). *Criteria for Determining Alternatives in EIA*.

Southern African Institute for Environmental Assessment (SAIEA). (2011). *Manual for Implementing the EA Barometer for Africa*.

Southern African Institute for Environmental Assessment (SAIEA). (2020). *Handbook on Environmental Assessment Legislation in the SADC Region*, 4th Edition, forthcoming.

Southern African Institute for Environmental Assessment (SAIEA). (Undated). *Guide to Opportunities for Public Participation in Environmental Assessment Processes in the Southern Africa Development Community*. SAIEA Calabash Products. https://irp-cdn.multiscreensite.com/2eb50196/files/uploaded/pp_rights.pdf. Accessed February 24, 2022.

SPREP. (2018). *Using the Mitigation Hierarchy to manage impacts on biodiversity in Pacific Island Countries and Territories*, Guidance note.

State of New South Wales, Department of Planning and Environment. (2017). *Social impact assessment guideline For State significant mining, petroleum production and extractive industry development*, Planning Policy, Strategy and Governance Division, NSW Department of Planning and Environment, Sydney NSW 2001.

Swangjang, K. (2018). Comparative review of EIA in the Association of Southeast Asian Nations, *Environmental Impact Assessment Review* 72 (2018), 33–42.

Turaga, R. M. R. (2016). The Politics of Formulation of Environmental Impact Assessment Regulation in India: A Case Study, *Journal of Environmental Assessment Policy and Management* Vol. 18, No. 2 (June 2016).

UNCTAD; World Bank. (2018). *Environmental and Social Impact Assessments. Responsible Agricultural Investment (RAI) Knowledge Into Action Note*, no. 14;. World Bank, Washington, DC.

UNCTAD; World Bank. (2018). *Monitoring Investments. Responsible Agricultural Investment (RAI) Knowledge Into Action Note*, no. 9;. World Bank, Washington, DC.

United Nations. (1982). *Convention on the Law of the Sea*.
United Nations. (1992). *Convention on Biological Diversity*.
United Nations. (2011). *Guiding principles on business and human rights: Implementing the United Nations “Protect, Respect and Remedy” framework*.

United Nations. (2018). *Report of the Secretary-General: Twentieth anniversary of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*. United Nations. A/73/230.

United Nations Committee of Experts on Public Administration. 2021. *CEPA Strategy Guidance Note on Impact Assessment for Sustainable Development*.

United Nations Development Programme. (2017). *Guidelines on Integrating Health and Gender into Environmental and Social Impact Assessments in Sub-Saharan Africa* by the Southern African Institute for Environmental Assessment.

United Nations Economic Commission for Africa. (2005). *Review of the Application of Environmental Impact Assessment in Selected African Countries*, UNECA.

United Nations Economic Commission for Europe. 1991. *Convention on Environmental Impact Assessment in a Transboundary Context* (Espoo, 1991).

United Nations Economic Commission for Europe (UNECE). 1998. *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, United Nations Economic Commission for Europe (UNECE).

United Nations Economic Commission for Europe (UNECE). 2006. *Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context*. ECE/MP.EIA/7.

United Nations Economic Commission for Europe (UNECE). 2016. *Good Practice Recommendations on Public Participation in Strategic Environmental Assessment*, United Nations Economic Commission for Europe (UNECE).

United Nations Economic Commission for Europe (UNECE). 2019. *Revised Guidelines on Environmental Impact Assessment in a Transboundary Context for Central Asian Countries*.

United Nations Environment Programme. (1987). *Goals and Principles of Environmental Impact Assessment Preliminary Note*, Issued on January 16, 1987.

United Nations Environment Programme. (2004). Environmental Impact Assessment and Strategic Environmental Assessment: Towards an Integrated Approach.

United Nations Environment Programme. (2017). Guidelines for Assimilating Gender into Integrated Environment Assessments.

United Nations Environment Programme. (2018). Assessing Environmental Impacts: A Global Review of Legislation, UN Environment Law Division and UN Environment World Conservation Monitoring Centre.

United Nations Environment Programme. (2019). Environmental Impact Assessment systems in the Association of Southeast Asian Nations (ASEAN) Member States.

United Nations Environmental Programme, Caspian Environment Programme, Economic Commission for Europe (UNECE), and European Bank for Reconstruction and Development (EBRD). (2004). Guidelines on Environmental Impact Assessment in a Transboundary Context in the Caspian Sea Region.

United Nations Treaties Collection. (2020). Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazu Agreement). Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-18&chapter=27&clang=_en.

UNWOMEN and Publish What You Pay. (2014). Extracting equality — a guide. Available at: <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2014/Extracting%20Equality%20-%20A%20Guide-FINAL-30%20October.pdf>. Accessed February 24, 2022.

Vanclay, F. (2003a). International Principles For Social Impact Assessment, Impact Assessment and Project Appraisal, 21:1, 5-12.

Vanclay, F. (2003b). International Principles for Social Impact Assessment: their evolution, Impact Assessment and Project Appraisal 21(1): 3-4 March 2003.

Vanclay, F. with Esteves, A. M., Aucamp, I, and Franks, D. (2015). Social Impact Assessment: Guidance for assessing and managing the social impacts of projects, International Association for Impact Assessment Guidance Note. (IAIA Guidance Note).

Vanclay, F., and Hanna, P. (2019). Conceptualizing Company Response to Community Protest: Principles to Achieve a Social License to Operate. *Land* 8(6), 101.

Vanclay, F. (2020). Reflections on Social Impact Assessment in the 21st century. *Impact Assessment and Project Appraisal*, 38(2), 126-131.

World Bank. (1996). Environmental Assessment Sourcebook and Update. Washington, D.C.

World Bank. (2002). The Legal and Regulatory Framework for Environmental Impact Assessments: A Study of Select Countries in Sub-Saharan Africa.

World Bank. (2002a). Environmental Impact Assessment Systems in Europe and Central Asia Countries.

World Bank. (2002b). The Legal and Regulatory Framework for Environmental Impact Assessments: A Study of Select Countries in Sub-Saharan Africa.

World Bank. (2012). OP 7.50 - Projects on International Waterways.

World Bank. (2013). Study on Human Rights Impact Assessments: A Review of the Literature, Differences with other Forms of Assessments and Relevance for Development.

World Bank. (2014). Key Issues for Consideration on the Proposed Rogun Hydropower Project

World Bank. (2017). Environmental and Social Framework (ESF).

World Bank. (2017b). World Development Report 2017 Governance and the Law.

World Bank. (2018). Environmental and Social Framework FAQ.

World Bank. (2018a). Guidance Note for Borrowers: ESS1: Assessment and Management of Environmental and Social Risks and Impact.

World Bank. (2018b). Environmental & Social Framework for IPF Operations Good Practice Note Third Party Monitoring. <http://documents1.worldbank.org/curated/en/578001530208566471/Environment-and-Social-Framework-ESF-Good-Practice-Note-on-Third-Party-Monitoring-English.pdf>. Accessed February 21, 2022.

The World Bank. (2018c). Guidance Note for Borrowers: ESS2: Labor and Working Conditions.

World Bank. (2019). Nepal Environment Sector Diagnostic: Path to Sustainable Growth Under Federalism.

World Bank. (2020). Doing Business, Available at: <https://www.worldbank.org/en/programs/business-enabling-environment/doing-business-legacy>. Accessed February 8, 2022.

World Bank. (2020a). World Bank Commitments Against Reprisals March 30, 2020, <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/world-bank-commitments-against-reprisals>. Accessed February 21, 2022.

World Bank. (2020b). Code of Ethics, Available at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/147281468337279671/wbg-code-of-ethics>. Accessed February 21, 2022. (World Bank 2020b).

World Bank. (2020c). Environmental and Social Framework Resources, Available at: <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/environmental-and-social-framework-resources>. Accessed April 6, 2021.

World Bank, University of Gothenburg, Swedish University of Agricultural Sciences and Netherlands Commission for Environmental Assessment. (2011). Strategic Environmental Assessment in Policy and Sector Reform: Conceptual Model and Operational Guidance. World Bank: Washington DC.

Yang, T. (2019). The Emergence of the Environmental Impact Assessment Duty as a Global Legal Norm and General Principle of Law. *HASTINGS LAW JOURNAL* Vol. 70:525.

Annex I. Comparison of International Principles for Environmental Impact Assessment

	The International Study of the Effectiveness of Environmental Assessment 1996 (14 Principles)	IAIA/IEMA Principles of Environmental Impact Assessment 1999 (14 Principles)	UNEP Environmental Impact Assessment Training Resource Manual Principles 2002 (9 Principles)	UNEP Environmental Impact Assessment and Strategic Environmental Assessment Principles 2004 (9 Principles)	EC Impact Assessment (EIA) Directive Principles (8 Principles)
Predictability	<p>Clear mandate and provisions: vested in law, have specific, enforceable requirements, and prescribe the responsibilities and obligations of proponents and other parties.</p> <p>Uniform, consistent application: automatically applied to all proposals and actions with potential environmental effects and consequences.</p>			<p>EIA should be integrated into existing development planning and approval processes so that:</p> <ul style="list-style-type: none"> a. minimum disruption is caused to existing institutional arrangements; and b. maximum effectiveness for EIA is achieved by identifying the appropriate "time/locations" for EIA to be linked to decision-making. 	<p>Certainty – process/timing agreed in advance.</p>
Purposive	<p>Explicit goals and objectives: a clear purpose and dedication to achieving environmental protection and/or sustainable development.</p>	<p>Purposive - the process should inform decision making and result in appropriate levels of environmental protection and community well-being.</p>	<p>Purposive – EIA should meet its aims of informing decision making and ensuring an appropriate level of environmental protection and human health.</p>	<p>EIA should be applied as a tool to help achieve sustainable development and should include an analysis of feasible alternatives to the proposed action. The process should be applied early in project development at a stage when these alternatives are still practicable.</p>	

	The International Study of the Effectiveness of Environmental Assessment 1996 (14 Principles)	IAIA/IEMA Principles of Environmental Impact Assessment 1999 (14 Principles)	UNEP Environmental Impact Assessment Training Resource Manual Principles 2002 (9 Principles)	UNEP Environmental Impact Assessment and Strategic Environmental Assessment Principles 2004 (9 Principles)	EC Impact Assessment (EIA) Directive Principles (8 Principles)
Practical and Relevant	<p>Decision-oriented: provide sound, tested practical information that is readily usable in planning and decision making.</p> <p>Related to condition-setting: explicitly linked to approvals and, as necessary, to specified terms and conditions.</p> <p>Follow-up and feedback in-built mechanisms: explicit measures for checking on compliance with conditions, monitoring effects, managing impacts, and auditing and evaluative performance.</p>	<p>Practical - the process should result in information and outputs which assist with problem solving and are acceptable to and able to be implemented by proponents.</p> <p>Relevant - the process should provide sufficient, reliable and usable information for development planning and decision making.</p>	<p>Practical - EIA should identify measures for impact mitigation that work and can be implemented.</p>	<p>EIA should be applied as a tool to implement environmental management, rather than as a report to gain project approvals.</p> <p>EIA should be integrated into the project life-cycle to ensure that environmental information is provided at the appropriate decision points and the correct time. There must be constant interaction and feedback between the EIA team and project designers and the proponent to ensure that design/location changes can be implemented to avoid or minimize adverse impacts to the maximum extent possible.</p>	<p>Practicality - information/ outputs readily usable in decision making and planning.</p>
Adaptive and Flexible	<p>Appropriate level of assessment scaled to the degree of environmental significance and extent of public concerns associated with a proposal.</p> <p>Flexible, problem-solving approach: adapted to deal with a range of proposals, issues, and decision-making situations.</p>	<p>Adaptive - the process should be adjusted to the realities, issues and circumstances of the proposals under review without compromising the integrity of the process, and be iterative, incorporating lessons learned throughout the proposal's life cycle.</p>	<p>Adaptive - EIA should be adjusted to the realities, issues and circumstances of the proposals under review.</p>		<p>Flexibility - adaptable to deal efficiently with any proposal and decision situation.</p>

	The International Study of the Effectiveness of Environmental Assessment 1996 (14 Principles)	IAIA/IEMA Principles of Environmental Impact Assessment 1999 (14 Principles)	UNEP Environmental Impact Assessment Training Resource Manual Principles 2002 (9 Principles)	UNEP Environmental Impact Assessment and Strategic Environmental Assessment Principles 2004 (9 Principles)	EC Impact Assessment (EIA) Directive Principles (8 Principles)
Focused	Relevant scope of consideration: examine all pertinent environmental options to and aspects of a proposal, including cumulative effects, interrelated socio-economic, cultural and health factors, and sustainability implications.	Focused - the process should concentrate on significant environmental effects and key issues; i.e., the matters that need to be taken into account in making decisions. Systematic - the process should result in full consideration of all relevant information on the affected environment.	Focused – EIA should concentrate on significant environmental effects, taking into account the issues that matter.	EIA should be applied to all proposed actions that are likely to have a significant adverse effect on the environment and human health. In a social context, particular attention should be given to vulnerable groups, such as Indigenous Peoples, and local communities who depend upon the resource base for their sustenance or lifestyle;	
Integrated	Relevant scope of consideration: examine all pertinent environmental options to and aspects of a proposal, including cumulative effects, interrelated socio-economic, cultural and health factors, and sustainability implications.	Interdisciplinary - the process should ensure that the appropriate techniques and experts in the relevant bio-physical and socio-economic disciplines are employed, including use of traditional knowledge as relevant. Integrated - the process should address the interrelationships of social, economic and biophysical aspects.		EIA should be carried out in a multi- or inter-disciplinary manner, using best-practicable science. EIA should integrate information on social, economic and biophysical impacts to the maximum extent possible. An integrated approach can be applied as part of an EIA study or carried out as part of report preparation and synthesis.	

	The International Study of the Effectiveness of Environmental Assessment 1996 (14 Principles)	IAIA/IEMA Principles of Environmental Impact Assessment 1999 (14 Principles)	UNEP Environmental Impact Assessment Training Resource Manual Principles 2002 (9 Principles)	UNEP Environmental Impact Assessment and Strategic Environmental Assessment Principles 2004 (9 Principles)	EC Impact Assessment (EIA) Directive Principles (8 Principles)
Participatory	Open, facilitative procedures: transparent and readily accessible, with a traceable record of assessment decisions and timely opportunities for public involvement and input at key stages.	Participative - the process should provide appropriate opportunities to inform and involve the interested and affected publics, and their inputs and concerns should be addressed explicitly in the documentation and decision making.	Participative – EIA should provide appropriate opportunities to inform and involve the interested and affected publics, and their inputs and concerns should be addressed explicitly.	EIA should include meaningful opportunities for public involvement. These should occur throughout the EIA process, using mechanisms that are appropriate to stakeholders. Key stages for involvement include scoping, interim reports (if prepared), draft/final report, decision-making, and post-decision stage.	Participation – appropriate/timely access for interested parties.
Transparency	Open, facilitative procedures: transparent and readily accessible, with a traceable record of assessment decisions and timely opportunities for public involvement and input at key stages	Transparent - the process should have clear, easily understood requirements for EIA content; ensure public access to information; identify the factors that are to be taken into account in decision making; and acknowledge limitations and difficulties.	Transparent – EIA should be a clear, easily understood and open process, with early notification procedure, access to documentation, and a public record of decisions taken and reasons for them.		Transparency – open and accessible assessment decisions.
Expertise	“Best-practice” standards: undertaken with professionalism, objectivity and credibility, as identified by “best-practices” in impact science, public consultation and process administration. Necessary support and guidance: requisite level of resources and procedural guidance for conducting assessments in accordance with requirements, principles and standards of good practice	Rigorous - the process should apply “best practicable” science, employing methodologies and techniques appropriate to address the problems being investigated. Credible - the process should be carried out with professionalism, rigor, fairness, objectivity, impartiality and balance, and be subject to independent checks and verification.	Rigorous – EIA should apply the ‘best practicable’ methodologies to address the impacts and issues being investigated. Credible – EIA should be carried out with professionalism, rigor, fairness, objectivity, impartiality and balance.		Credibility – undertaken with professionalism/objectivity.

	The International Study of the Effectiveness of Environmental Assessment 1996 (14 Principles)	IAIA/IEEMA Principles of Environmental Impact Assessment 1999 (14 Principles)	UNEP Environmental Impact Assessment Training Resource Manual Principles 2002 (9 Principles)	UNEP Environmental Impact Assessment and Strategic Environmental Assessment Principles 2004 (9 Principles)	EC Impact Assessment (EIA) Directive Principles (8 Principles)
Efficient and cost effective	<p>Efficient, predictable implementation: applied in a timely manner that fosters certainty, minimizes delay and avoids unnecessary burdens on proponents.</p> <p>Cost-effective outcomes: promote actions that ensure environmental protection at least cost to society.</p>	<p>Efficient - the process should impose the minimum cost burdens in terms of time and finance on proponents and participants consistent with meeting accepted requirements and objectives of EIA.</p> <p>Cost-effective - the process should achieve the objectives of EIA within the limits of available information, time, resources and methodology.</p>	<p>Efficient – EIA should impose the minimum cost burden on proponents consistent with meeting process requirements and objectives.</p>		<p>Cost effectiveness – environmental protection at the least cost to society</p>
Accountability					<p>Accountability – decision makers responsible for their actions and decisions.</p>

Annex II. Select Resources and Sources of Expertise

As this literature review makes abundantly clear, there are numerous resources to help develop and strengthen implementation of effective national systems for environmental and social impact assessment. This section highlights some of the main documents and organizations working in this field.

2.1. Documents

United Nations Environment Programme. 2018. “Assessing Environmental Impacts: A Global Review of Legislation.”

<http://wedocs.unep.org/handle/20.500.11822/22691>

The publication provides an overview of the current status of national legislation and institutional arrangements of relevance to EIAs and SEAs across the globe, as well as emerging issues and trends. It does this primarily through providing examples from a wide selection of countries of their EIA/SEA arrangements and in relation to the different steps of the EIA/SEA processes. These steps include: (1) Screening; (2) Scoping and Impact Analysis; (3) Review of the EIA/SEA report; (4) Decision-making; (5) Follow-up and Adaptive Management and (6) Public Participation as a cross-cutting issue.

Chris Joseph, Thomas Gunton & Murray Rutherford. 2015. Good practices for environmental assessment, Impact Assessment and Project Appraisal, 33:4, 238-254.

<https://www.tandfonline.com/doi/full/10.1080/14615517.2015.1063811>

This article develops a set of good practices to improve environmental assessment. An integrated list of proposed good practices is developed based on a literature review of impact assessment research and related fields of study. The practices are then evaluated by surveying experts and practitioners involved in environmental assessment in Canada. In all, 74 practices grouped under 22 themes are recommended to improve environmental assessment. Key unresolved issues in environmental assessment requiring future research are identified.

Frank Vanclay with Ana Maria Esteves, Ilse Aucamp, and Daniel Franks. 2015. Social Impact Assessment: Guidance for assessing and managing the social impacts of projects, International Association for Impact Assessment Guidance Note.

https://www.iaia.org/uploads/pdf/SIA_Guidance_Document_IAIA.pdf

This Guidance Note provides advice to various stakeholders about what is expected in good practice social impact assessment (SIA) and social impact management processes, especially in relation to project development. This Guidance Note builds on IAIA's (2003) International Principles for Social Impact Assessment. While the International Principles outline the overarching understandings of the SIA field, including the expected values of the profession, this document seeks to provide advice on good practice in the undertaking and appraisal of SIAs and the adaptive management of projects to address the social issues.

2.2. Organizations and Platforms

Environmental Law Alliance Worldwide (ELAW)

<https://www.elaw.org/>

The Environmental Law Alliance Worldwide (ELAW) helps communities speak out for clean air, clean water, and a healthy planet. We are a global alliance of attorneys, scientists and other advocates collaborating across borders to promote grassroots efforts to build a sustainable, just future. ELAW produces the EIA Law Matrix (https://www.elaw.org/elm_old) which enables users to easily access EIA laws and regulations, to view summaries of the EIA system for selected countries, and to make comparisons among all of the laws included in the database.

The International Association for Impact Assessment

<http://www.iaia.org/>

IAIA is a leading global network on best practice in the use of impact assessment for informed decision making regarding policies, programs, plans and

projects. Members of IAIA believe that impact assessment is a practical tool for helping meet today's needs without compromising the opportunities of future generations.

Institute of Environmental Management & Assessment

<https://www.iema.net/>

Institute of Environmental Management & Assessment is a professional body for people working in environment and sustainability. IEMA is committed to supporting, encouraging and improving the confidence and performance, profile and recognition of sustainability professionals. IEMA provides resources and tools, research and knowledge sharing along with high-quality formal training and qualifications to meet the real world needs of members from their first steps on the career ladder, right to the very top.

The Netherlands Commission for Environmental Assessment (NCEA)

<http://www.eia.nl/en>

The NCEA supports environment and sectoral ministries, environmental assessment professionals and non-governmental organizations, to improve their environmental and social assessment practice. The NCEA advises on the quality of the process and content of these assessments, both at project level (environmental and social impact assessment or ESIA) and strategic level (strategic environmental assessment or SEA). NCEA analyzes good practice (<https://www.eia.nl/en/our-work/knowledge>) and ESIA practice by county (<https://www.eia.nl/en/countries>)

The Social Impact Assessment (SIA) Hub

<https://www.socialimpactassessment.com/>

Developed by two of the leading experts in SIA, the SIA hub seeks to advance excellence in the practice of social impact assessment by providing a web-based portal where the global SIA community of practice can network, access resources, share ideas and promote good practice.

SIA hub was established with generous support from the International Association for Impact Assessment (IAIA).

The Southern African Institute for Environmental Assessment

<https://www.saiea.com/>

The Southern African Institute for Environmental Assessment provides independent, professional services to authorities and other stakeholders in the field of impact assessment in Africa. They have significant experience, with UNDP, on integrating health into ESIA in Southern Africa as well as 2003 partnership with the Canadian International Development Agency and World Bank on participatory decision making within EIA (called the Calabash project, <https://www.saiea.com/calabash>).

