



# **Report on EIA twinning project between Lao PDR and Japan**

TA 7566-REG: Strengthening and Use of Country  
Safeguards System:

Sub-project: EIA Clearinghouse and Capacity  
Strengthening through Twinning

## **Consultation Workshop in Lao PDR January 2014**

Implementing Agency:

Asian Environmental Compliance and Enforcement Network (AECEN)  
Secretariat

February 2014

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## 1. Introduction

The Asian Environmental Compliance and Enforcement (AECEN), a regional practitioner network dedicated to sharing improved policies and practices in compliance and enforcement in Asia. The network was launched at ADB's headquarters in Manila in 2005, with assistance from the United States Agency for International Development (USAID) and ADB, in partnership with 13 Asian countries (16 countries and 19 member agencies as of December 2013). In 2009, member agencies agreed that Institute for Global Environmental Strategies (IGES) would become the permanent secretariat of AECEN.

In July 2010, the Asian Development Bank (ADB) Board of Directors approved Technical Assistance (TA) 7566-REG for \$5,000,000. ADB and IGES signed a Memorandum of Understanding (MOU) on a range of cooperative activities, including AECEN. In September 2011 the ADB approved an increased TA amount to \$8,000,000. In 2012, IGES became the permanent secretariat of AECEN operated from its Regional Center based in Bangkok.

TA 7566-REG has three components: (i) subproject implementation, (ii) knowledge management and dissemination, and (iii) coordination among development agencies. Through Component 1, Subproject Implementation, ADB is providing systematic, timely support for a series of subprojects tailored to the needs of specific Developing Member Countries (DMCs) for strengthening and effective implementation of their respective country safeguard systems.

One of those subprojects three components: (i) subproject implementation, (ii) knowledge management and dissemination, and (iii) coordination among development agencies is being implemented by the Asian Environmental Compliance and Enforcement Network (AECEN) through its Secretariat managed by the Institute for Global Environmental Strategies (IGES) regional center in Bangkok, Thailand. AECEN was launched at ADB's headquarters in Manila in 2005, with assistance from the United States Agency for International Development (USAID) and ADB, in partnership with 13 Asian countries (now with 19 member agencies from 16 countries) to promote improved compliance and enforcement of existing environmental legislation. AECEN achieves this objective through active exchange of innovative policies and best practices shared among member environmental agencies (at national and sub-national levels). In 2009, member agencies agreed that IGES would become the permanent secretariat of AECEN. Furthermore, IGES and ADB signed a Memorandum of Understanding (MOU) on a range of cooperative activities, including AECEN, in 2010.

The subproject that IGES is implementing under TA7566-REG has two main components: (i) an EIA clearinghouse that aims to facilitate knowledge capture and dissemination of information on international best practices in EIA implementation, and (ii) south-south twinning between Lao PDR and Japan, and Sri Lanka and Japan. Through these components, the subproject aims to improve information sharing and knowledge management in EIA among all DMCs through the EIA clearinghouse and to enhance capacity of beneficiary countries by improved understanding of EIA best practices of the mentor country through south-south twinning.

The first component, the EIA clearinghouse, was developed and successfully launched in the AECEN's website in March 2013 (<http://www.aecen.org/eia-compendium>). The clearinghouse provides EIA laws and regulations, useful EIA references, guidelines and manuals, case studies of EIAs that could serve as models for future EIAs in the same sector, news articles and court

cases involving implementation issues surrounding EIAs, and hot-links to national websites of EIA-related agencies.

The second component, two EIA twinning projects, is planned between Lao PDR and Japan, and Sri Lanka and Japan. In both cases, the Japanese Association of Environment Assessment (JEAS) will act as mentoring organization to the project. The Sri Lanka twinning project is implemented with the partnership with the Central Environmental Authority (CEA) and the Lao twinning project with the Department of Environmental and Social Impact Assessment (DESIA), the Ministry of Natural Resources and Environmental (MoNRE).

This report presents the summary of the Consultation Workshop held in Vientiane, Lao PDR in January 2014 as part of EIA twinning project between Lao PDR and Japan.

## **2. Overview of the EIA twinning project**

### **2.1 AECEN's twinning project**

Twinning is a key feature of AECEN's capacity development mechanism between members and its effectiveness has been proven in numerous projects. Twinning activities can include peer review of policies and operations, technical assistance in developing and implementing improved policies and practices, specialized on-the-job training and information exchange. Key elements of twinning are summarized in six points below:

*Counterpart Exchange:* Twinning partnerships facilitate direct exchange between practitioners in sharing information on improved policies and practices;

*Reciprocal Benefits:* Both twinning partners receive benefits from the partnerships in strengthening their policies, practices and capabilities;

*Demand Driven:* Twinning partnerships respond to an agency's priority needs, which are matched with another agency's proven approaches and capabilities;

*Results Focused:* Twinning partners develop MOUs and work plans that identify specific commitments, activities, resources, timelines and outcomes. Twinning partnerships result in the adoption of improved policies and practices as well as increased capacity, leading to measurable improvements and tangible outcomes;

*Replication:* Twinning partnerships aim to replicate proven policies and practices across Asia; and

*Cost Sharing:* All partner agencies support twinning activities on a cost-share basis, providing in-kind and direct funding support. Development partners facilitate and co-fund twinning activities as needed.

### **2.2 Rationale for the EIA twinning project**

Minimizing adverse environmental impacts of economic development accompanied by rapid urbanization and industrial growth as well as conserving natural environment remain significant

challenges for Asia. While many governments have developed legal and institutional frameworks for environmental safeguards, implementation and enforcement of environmental laws and regulations remains weak due in large part to technical, financial, and human capacity limitations.

In the region, application of Environmental Impact Assessment (EIA) requirements has been consistently identified as a priority concern of environmental compliance and enforcement. Yet, effective implementation of the EIA laws in Asia remains patchy, especially in relation to compliance and enforcement of environmental management and monitoring plans (EMMPs) which identify measures to be taken in order to reduce adverse environmental and social impacts to acceptable levels or offset them in appropriate manners. Therefore, EIA implementation needs to be enhanced through further capacity strengthening.

### **2.3 Objective of the EIA twinning project**

The objective of the project is to develop the implementing capacity of EIA in Sri Lanka and Lao PDR through the bilateral twinning arrangement with Japan as a mentoring country. The twinning arrangement provides mutual hands-on learning opportunities among the government officials in charge and experts in the field and delivers tangible outputs that are beneficial to mentee countries.

### **2.3 Overall activities envisioned for EIA twinning project**

The following sequential activities were envisioned to be undertaken for the twinning project to implement effective partnerships between mentor and mentee countries (Sri Lanka, and Lao PDR):

- (i) Drafting plan and schedule for key activities in close consultation with Japan and Sri Lanka/Lao PDR for ADB review and approval;
- (ii) Signing of Memorandum of Understanding (MOU) between partners;
- (iii) Organizing Workshops in to launch the twinning program;
- (iv) Reviewing EIA and SEA applications in Sri Lanka to ascertain training requirements;
- (v) Coordinating study tour and site visits to Japan;
- (vi) Revising Sri Lanka's/Lao PDR's exiting EIA guidelines and/or developing new ones;
- (vii) Drafting training and user manuals for amended and/or additional EIA guidelines; and
- (viii) Organizing training program to introduce amended and/or new EIA guidelines and manuals.

## **3. Lao PDR-Japan EIA twinning project**

### **3.1 Organizational arrangement**

#### **Japan (mentor)**

The Japanese Association of Environment Assessment (JEAS) will act as a mentoring organization of the project and implement the project on behalf of the Ministry of the Environment, the government of Japan. The JEAS is a public association comprising over 190 environmental assessment business companies and organs established in 1978 and operated

under the supervision of ministries of environment; agriculture, forestry and fisheries; economy, trade and industry; and land, infrastructure, transport and tourism (<http://www.jeas.org/english.cts>).

The JEAS appointed two Japanese experts from Environmental Resources Management (ERM) in Japan. ERM is a leading global provider of environmental, health, safety, risk, social consulting services and sustainability related services. ERM has over 140 offices in 39 countries and territories employing more than 5,000 people (<http://www.erm.com/en/>).

Mr. Manabu Sakaguchi Partner, ERM Japan, will lead the project. He is an environmental and social safeguards specialist and extensive experience in the field from the various projects overseas. Ms. Naoko Maruyama, Consultant, ERM Japan, will assist in implementing the project as team member. She is also an environmental and social safeguards specialist and has extensive experience in environmental certification.

### **Lao PDR (mentee)**

The Department of Environmental and Social Impact Assessment (DESIA) under the MoNRE is responsible for overseeing the implementation of the EIA process. MoNRE is responsible for issuing environmental quality standards in cooperation with the line ministries, and for issuing general EIA guidelines specifying procedures and standards to evaluate and mitigate environmental impacts caused by development projects.

Mr. Lamphoukeo Kettavong, Deputy Head of Planning and Administration Division, DESIA will lead the project, and Mr. Somsanouk Sodouangdenh, Centre for Reviewing on Agriculture-Forestry, Industry and Public investment Sector, DESIA will act as a focal point for the project.

### **AECEN (project secretariat)**

Dr. Peter Noel King, Head of AECEN secretariat/AECEN Team, Mr. Chandkachorn John Chandarat, Website and database Manager, Institute for Global Environmental Strategies (IGES) Regional Centre, and Dr. Daisuke Sano, Director, IGES Regional Centre, will assist in implementing the project and liaise with ADB. Dr. Daisuke Sano will act as a focal point.

## **3.2 Consultation Workshop**

### **Overview**

The Consultation Workshop for twinning partnership on environmental impact assessment (EIA) between Lao PDR and Japan was held on 9 January 2014 at the Mercure Hotel, Vientiane, Lao PDR. The Workshop was organized by the DESIA and AECEN Secretariat with support from the ADB and DESIA.

The Consultation Workshop brought together partners from both mentor and mentee countries to identify and prioritize assistance needs, discuss and agree on objectives and design of the partnership, and secure commitments from leadership of both countries for its implementation.

The Workshop was followed by the extended consultation between Lao PDR and Japan at the DESIA on 10 January 2014 to develop and Memorandum of Understanding (MoU) and detailed work plan. Drafted MoU and joint work plan were included in the Annex.

### **Summary of the Consultation Workshop**

On 9 January 2014, approximately 20 representatives from the DEASIA who are in charge of reviewing sectoral EIAs, two EIA experts from the ERM, Japan, and two representatives from the AECEN Secretariat gathered to share their knowledge and experience from EIA implementation and identify challenges and needs in Lao PDR. The workshop was conducted primarily in Lao to ensure the discussion among Lao participants. A simultaneous interpreter facilitated the communication with the ERM and AECEN Secretariat in English.

The Workshop was started with the welcome remarks by Mr. Lamphoukeo Kettavong, Deputy Head of Management and Planning Division, DESIA, the host organization of the Workshop, and facilitated by him. Mr. Kettavong briefly introduced the current EIA-related projects by the DESIA with the aid from the World Bank, ADB, UNDP, and the Government of Finland to respond to an increase in EIA needs in Lao PDR. He noted that EIA is an important tool for designing sustainable development plans for Lao PDR and there is an urgent need especially for strengthening institutional capacity in implementing EIA. He also noted his plan to report the results of this consultation process with the sector representatives to the Director General of the DESIA immediately after the Workshop.

Dr. Peter King, Head of the AECEN secretariat, presented how the twinning partnership between Sri Lanka and Japan works and why strengthening country's safeguards systems are important to ADB and countries. He explained the expected outcome of the Consultation Workshop and encouraged participants' active discussion.

In Session 1, the first presentation was made by Mr. Oraphan Bounyaphalom, Head of Environmental Management and Monitoring Division, DESIA, to introduce and understand the current status of the EIA implementation in Lao PDR. He mentioned that many projects were planned especially in the past six-seven years in Lao PDR and this is posing increased environmental and social impacts. EIA reports are prepared and submitted by the technical department/consulting firms, but these reports often suffer from insufficient descriptions of comprehensive measures to mitigate the impacts.

In 2012 the new EIA law was enacted, replacing the preceding one of 1991, to ensure the assessment and control of both environmental and social impacts by the DESIA. However, there is still an inconsistency in the new law regarding the settlement and compensation components, for instance, and therefore additional amendment is being proposed. There are mainly two types of assessment processes: Initial Environmental Examination (IEE) and EIA. The former is applied to small-scale projects, but if the expected impacts are considerable, the EIA is applied even the scale of the project may be considered small.

The EIA can be conducted at four levels: national, provincial, district, and village. He shared his observations including a lack of certification process of EIA conducting firms, insufficient/lack of public participation, and a difficulty in conducting transboundary assessment.

He summarized a few current challenges in EIA implementation in Lao PDR: (i) enforcement of the law, (ii) resettlement and compensation issues, and (iii) EIA review process. For (i), although the new law endows more authorities to the DESIA, the enforcement is weak due to lack of skilled human resources, equipment, and funds to monitor the environmental impacts mitigation measures or penalties for violations. DESIA heard and knows about the incidents of many fish killed by hydropower and/or mining operations, but there is no scientific ways to investigating the causalities scientifically (equipment, laboratories). For (ii), DESIA is working on publishing the laws and guidelines to the public and EIA conducting firms with the aid from the Finish Government. For (iii), DESIA needs manuals for reviewing EIA reports to complete the reviewing process within the designated period.

The second presentation was made by Mr. Latsamy Vorarath, Deputy Head of Environmental Management and Monitoring Division, DESIA, focusing on the issues of environment mitigation and monitoring plans (EMMP) in Lao PDR. He noted that there are no standardized or agreed EMMP procedures in Lao PDR. Questions remain if a project owner is complying with the laws and following the EIA procedures or proposed mitigation measures are sufficient.

The ministerial instructions were revised and there are three authorized monitoring processes: regular monitoring, emergency monitoring (in the event of unexpected incidents), and monitoring without notifying. Typically, the monitoring is conducted first by reviewing the EMMP report and in response to the local stakeholders' claims/complaints followed by the field monitoring and reports/recommendations that are given to the firms that conducted EIA and ministers. GPS is often used as the field monitoring equipment, but DESIA does not have other equipment for proper monitoring.

He noted that the challenges include staff's insufficient capacity and experience in monitoring, lack of equipment for scientific investigation, and lack of knowledge for new project such as a closure of mining operation and associated measures to control pollutions.

Based on the presentations, a few questions were raised. In response to the question about the number of EIA that the DESIA is reviewing, the participants in charge of sectoral review answered that there are 15 existing projects to be reviewed this year in the energy sector; about 14-15 in the mining sector, 10 for infrastructure, and 10 rubber processing plantation. There is no project to be reviewed in the agricultural sector.

In Session 2, two presentations were delivered by two Japanese experts. Ms. Naoko Maruyama, Consultant, ERM presented the EIA and capacity development in Japan on behalf of the Ministry of the Environment, Japan. She presented several major EIA triggers by the Japanese EIA law and noted that a wind power generator was recently added in the list in response to the publics' concerns (noise, birds).

In 2011 Japan amended the EIA law to include the process of a primary environmental consideration and the impact mitigation measures (EMMP) prior and posterior to the screening process, respectively. The amendment also included additional opportunities for the general public as well as the Ministry of the Environment to make comments in the process. Japan's EIA system is supplemented by the existing related pollution control and conservation laws. Ordinances by the sub-national governments also supplement the national EIA law, but the duplication of assessment processes is prohibited. She noted that environmental consideration process in Japan is not considered as an SEA by a standard definition but as SEA at the project

level. She also explained three major training opportunities by the Ministry of the Environment, the Japan Association of Environment Assessment (JEAS), and the Japan Society for Impact Assessment (an academic circle).

Mr. Manabu Sakaguchi, ERM, made a presentation on improving the EIA system and shared some perspective, experience and strategies. He emphasized the importance of public participation in the EIA – it helps project proponents to comply with the legal requirements. The main components of the EIA regulations are EIA process, monitoring and information disclosure. Detailed technical guidelines provide ministries or provinces with guidance in implementation of the EIA in which quantitative impacts analysis/assessment is required. Japan already installed a sufficient number of stations to monitor environmental conditions nation-wide with which the EIA can be primarily completed. He also briefly shared his experience in the monitoring by the third party in the Philippines. He concluded his presentation by proposing possible areas that Japan can contribute to this twinning project.

In response to two presentations by Japanese experts, Mr. Kettavong commented that the ministerial instructions in Lao PDR are considered like laws in a practical sense, which seems different from the practice in Japan. Several questions and comments followed:

- A question regarding stakeholder consultation: there are three stages in Japan where public can make comments/opinions on the EIA process and anyone, whether from the affected areas or not, can post comments.
- A comment on scoping: a participant in charge of the agriculture-forestry, industry and public investment noted that the public participation is important, yet for the scoping process in Lao PDR the project proponents have to present the results without public consultation. Without a proper study, completing scoping is very difficult.
- A question on who involves scoping process in Japan: scientists/experts and/or lawyers review the scoping. He noted that the project proponents are required to respond to the environmental and social impacts issues only, but the project proponents are expected to convince people who raised the issues.
- A question on the duration of the EIA process in Japan: a few months
- A question who prepares terms of reference (ToR) for EIA: ToR for scoping is prepared by the government as a reference document. Dr. Peter King commented that EIA should not be considered as checking boxes but to improve the project, and scoping is preferred to be implemented by both the governments and project proponents.
- A question on who discloses the EIA-related information in Japan: the Ministry of the Environment does from its website. The project proponents are often the government. In the planning stage, having local information such as historical heritage is critical.
- A question on how to deal with indirect impacts caused by the project such as fish population because of dam project: non-environmental impacts such as on business are analyzed and compensation is provided if needed in Japan.
- A question whether additional project types can be added: in addition to existing categories required by the national laws, the local governments can add if needed in Japan.
- A question on how to make people interested in EIA: through internet and/or local leaders can be considered.

Mr. Kettavong noted that the public participation is a key for sustainable project and concluded the session.

In the afternoon session, the open discussion was made to prioritize the needs in Lao PDR. Ms. Maruyama presented the summary of the discussion from the previous sessions. Mr. Kettavong stressed that there is a great need in staff's capacity development, including managing level personnel. He also noted that project by WB and ADB is conducting trainings for trainers in the areas of compensation and resettlement; the Government of Finland in public information disclosure; and UNDP in the related areas. He shared that the Director General of DESIA is interested in hydro power and/or mining. A participant asked if Japan has experience mine closure and rehabilitation and Mr. Sakaguchi responded it had but long ago.

After views on a wide range of possible collaboration exchanged including eco-tourism, land management, and flood management, information disclosure, training manuals, technical information/knowledge on monitoring equipment, participants narrowed down four broad areas for the twinning project:

- Technical support for EIA review
- Enforcement and commitment to EIA and EMMP
- Training system and
- Experience and new systems from Japan

Mr. Kettavong, Mr. Soudouangdenh, and four participants from Japan and AECEN Secretariat met Mr. Xayaveth Vixay, Director General of the DESIA and informed the results of the consultation workshop. He acknowledged the process and stressed that strengthening the government staff's capacity (national, provincial, and district level) is urgent as the responsibility is shifting towards sub-national level. A joint monitoring with line/technical ministries is also critical.

With the discussion on the 9 January 2014, the consultation process continued on 10 January 2014 at DESIA to develop a draft MoU and a work plan.

The presentations were made available through AECEN's website (<http://www.aecen.org/events/consultation-workshop-twinning-partnership-environmental-impact-assessment-eia-between-lao-pd>)

### **3.3 Follow-up activities**

- Finalize MoU and the joint work plan and get endorsement from associated organizations.
- ERM will consult the JEAS to plan observation tour workshop to be held in Japan to which the government officials from two mentee countries (Sri Lanka and Lao PDR) participate in.