



Report on EIA twinning project between Sri Lanka and Japan

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

Sub-project: EIA Clearinghouse and Capacity
Strengthening through Twinning

Consultation Workshop in Sri Lanka December 2013

Implementing Agency:

Asian Environmental Compliance and Enforcement Network (AECEN)
Secretariat

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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).

This report presents the summary of the Consultation Workshop held in Colombo, Sri Lanka in December 2012 as part of EIA twinning project between Sri Lanka 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 existing 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. Sri Lanka-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 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. Yohei Suzuki, Consultant, ERM Japan, will act as a focal point of Japan and lead the project. He is an environmental and social safeguards specialist and extensive experience in the field from the various projects in Egypt and Sri Lanka.

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.

Sri Lanka (mentee)

The Central Environmental Authority (CEA) will act as implementing organization of the project. The CEA was established in August 1981 under the provision of the National Environmental Act No:47 of 1980. The Ministry of Environment and Natural Resources (ME&NR) which was established in December 2001 has the overall responsibility in the affairs of the CEA with the objective of integrating environmental considerations in the development process of the country. The CEA was given wider regulatory powers under the National Environment (Amendment) Acts No:56 of 1988 and No:53 of 2000 (<http://www.cea.lk/>).

Ms. Kanthi de Silva, Director, the CEA will act as a focal point and lead 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 Sri Lanka and Japan was held on 10 December 2013 at the Hotel Taj Samudra, Colombo, Sri Lanka. The Workshop was organized by the CEA and AECEN Secretariat with support from the ADB.

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 Sri Lanka and Japan at the CEA to develop detailed work plan on 11 December and the field visit to the Batathita Minihydro Power Project in Kuruwita on 12 December 2013.

Thought the Consultation Workshop, an Memorandum of Understanding (MoU) and a joint work plan where outcomes, outputs, key activities, performance monitoring, and budget allocation were stipulated were developed. (((Drafted MoU and joint work plan were included in the Annex.)))

Summary of the Consultation Workshop

On 10 December, approximately 25 participants including the current and former officials from the CEA, officials from technical agencies, experts engaged in EIA from ADB, Japan, and AECEN Secretariat gathered to share their knowledge and experience from EIA implementation and identify challenges and needs in Sri Lanka.

The Workshop was started with the welcome remarks by Dr. Saranga Alahapperuma, Director General of the CEA, the host organization of the Workshop; followed by the introduction to the ADB's approach, support, and activities on environmental safeguards by Dr. Palitha Bandara, Environmental Safeguards Specialist from the ADB Sri Lanka office. DR. Bandara emphasized the ADB's commitment to the environmental safeguards issues in the region and introduced the ADB's Safeguards Policy published in 2009 as the key document for the ADB. The document provides a fundamental guidance to the implementation of the safeguards including the assessment of potential impacts, existing level of assessment, and information disclosure to ultimately integrate environmental consideration into project decision making. Dr. Peter King, Head of the AECEN secretariat, gave an introduction to AECEN's mission as well as its past achievements and presented the overview of twinning partnership between Sri Lanka and Japan, the objectives of the Consultation Workshop, and the role of AECEN secretariat. The session was moderated by Ms. Ramani Ellepola, former Director General of the CEA.

In Session 1, four presentations were made to introduce and understand the current status of the EIA implementation in Sri Lanka. The session was moderated by Ms. Ramani Ellepola, former Director General of the CEA. Ms. Nilmini Attanayake, Deputy Director, the CEA presented the overall EIA system in Sri Lanka. She briefly touched upon the history of EIA system development in Sri Lanka, highlighting its landmark law of the National Environmental Act enacted in 1998. Under the Act, only prescribed projects are subject to the EIA and to be approved by 23 public appropriate agencies (PAAs). The EIA process comprises of three main steps: screening, scoping and impact assessment. The scoping process determines whether or not a project is required the initial environmental examination or full-scale EIA. The submitted EIA report, which are usually prepared by the consulting firms, are reviewed by technical

evaluation committee under the relevant technical ministries/agencies. It was noted that an environmental management and monitoring plan (EMMP) is not required under the Act. Ms. Attanayake noted that the public consultation results are often missing in the EIA report.

Ms. Kanthi De Silva, Director of the EIA, CEA, presented the Sri Lanka's experience and challenges in EIA based on her 20 years of engagement in the EIA work. She noted that the EIA can be a tool for sustainable development and provide opportunities for the locals to raise their concerns. She summarized major challenges in four categories: (i) quality of EIA report, (ii) poor review process, (iii) insufficient monitoring, and (iv) process issues. For (i), the CEA often finds some EIA reports are not focused on the main issues nor presented in a systematic fashion and suffers from the lack of reliable baseline data or use of improper methodologies. Poorly-prepared terms of references (ToRs) for scoping exercise by the technical ministries/agencies in charge often result in poor EIA reporting. For (ii), the technical evaluation committees (TEC) sometimes lack objectivity or favor their own industries/agencies over the national benefits especially in the case of state-led projects. There is no licensing system for consultants that prepare the EIA reports. For (iii), EMMP is not required by the law and enforcement is weak. For (iv), which is also related to (iii) above, the PAA's objectivity is sometime questionable. In response to the question what would be the top priority issue in EIA, Ms. De Silva noted that the EIA evaluation process would need more independent review process. Dr. Peter King noted that in the case of Korea, the Korea Environment Institute (KEI) has a dedicated division to review all the EIA reports. A participant who used to work for CEA noted that it is difficult to change the law but the CEA could introduce informal ministerial-level guidelines for appropriate scoping exercise.

Mr. KGS Jayawardena, Deputy Director, EIA, CEA presented EIA training and capacity development for priority sectors in Sri Lanka. He noted that the EIA process can be strengthened from multiple aspects such as (i) legislative process, (ii) institutional arrangement, (iii) procedural improvement, and (iv) technical capacity; however, (iv) technical is often found difficult in Sri Lanka because the country is not exposed enough to newer technologies. Developing guidelines could be considered by key environmental factors (air, water, noise, etc.), by industrial sectors, or specifically for preparing EIA reports. He also noted that Sri Lanka would benefit from having such guidelines for key industries (oil, gas, chemical, mineral processing), waste sector (incineration, e-waste, hazardous waste), energy sector (LNG and renewable energy), and transport sector. Dr. Peter King suggested that Sri Lanka considers the CEA certifies EIA reviewers. A participant expressed the need for regular training courses for the government officials.

Ms. Kusala Mahalekame, Assistant Director, EIA, CEA presented the application of strategic environmental assessment (SEA) in Sri Lanka. SEA has been employed for three pilot cases in Sri Lanka to assess the impacts of policies/programs and to help decision making on development plan. Not all of these cases were SEA in a strict sense, but the process generated recommendations for sustainable development plans. She presented examples in decision making including: determination of natural reserve, relocation of coal plant, and identification of eco-tourism site. Participants noted that SEA can be a good tool for development master plan; SEA process may need a powerful ministry to oversee to cross-sectoral issues. Dr. Peter King noted that the land plan system substitutes for SEA in Singapore.

In Session 2, two presentations were delivered by two Japanese experts. The session was moderated by Dr. Daisuke Sano, ACCEN secretariat.

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 public's 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 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). A question was asked if Japan is employing SEA and Ms. Maruyama responded that Japan does not have an SEA process in a strict sense yet, but there are some introductory cases where the concept of SEA were employed at the prefectural level.

Mr. Yohei Suzuki, Consultant, ERM, made a presentation on improving the EIA system and shared some perspective, experience and strategies. After presenting the major aspects involved in the EIA implementation such as enforcement, technical matters, information disclosure, stakeholder engagement, and organizational arrangement, he summarized several identified challenges in Sri Lanka from the morning session. In Japan's EIA is implemented in tandem with the environmental laws and EIA reports are circulated to technical agencies for the review. He emphasized the importance of the baseline survey and noted that the project proponents usually use the secondary data available to the public and supplement with the primary data collected for the assessment. He also noted that the EIA has been also evolved together with the economic development in Japan, especially urban issues. The Information disclosure is considered as an effective tool for consensus building. Lastly, he shared the list of international EIA standards useful for strengthening EIA implementation. Ms. Kanthi De Silva asked if Japan considers social impacts and he responded that it generally does not.

In Session 3, Sri Lankan participants identified the priority areas/needs that this twinning project should address. The session was moderated by Dr. Peter King. With the presentation on expected outcome and suggested outputs from the twinning project presented by Dr. Daisuke Sano and the list of major challenges prepared by Mr. Suzuki, the participants voted for the issues that are most important. The results indicated that the Sri Lankan participants considered that the exposure/understanding to the new technologies and associated capacity development are most critical, followed by the improvement of the EIA review process and EMMP. The participants also expressed their interest in setting up an association for EIA implementing firms such as the JEAS. The session also discussed possible activities/site visit for the selected participants to the observation tour planned in Japan (mentor country). Mr. Suzuki and Ms. Maruyama shared their views on what kind of activities can Japan offer in response to the needs identified in the session. The participants also re-acknowledged the importance of the EMMP and Dr. King noted that it is desirable to embed it in the contract that assessment conducting firms will be given. The participants expressed their interest in the EIA for new technologies in the energy sector (coal, wind power generator, LNG). A participant also expressed an interest in improving accreditation for EIA report preparing consulting firms.

Organizers thanked the participants for active discussion and the workshop was closed.

The agenda, the list of participants, and presentations were included in the Annex and made available through AECEN's website (<http://www.aecen.org/>)

On 11 December, the consultation process continued to identify the priority needs in Sri Lanka continued at the CEA. The expected outcome of the twining project and a draft work plan in which proposed activities for a few priority areas/subjects were developed below:

The two major expected outcomes are: (i) an increased capacity of EIA implementation in priority sectors in terms of the government officials' capability to instruct project proponents to prepare appropriate EIA preparation documents (Terms of reference etc.) and to evaluate EIA reports prepared by the project proponents and (ii) an increased exposure and understanding to the newer technologies that mentee countries would need for their future industrial development.

The draft scope of work includes:

- (1) Organizational matters
 - Background and organizational arrangement made for the JEAS for Sri Lanka to consider to establish a similar consortium in the country
- (2) Sectoral matters
 - Energy sector: coal, wind power plant, LNG
 - Transport: newer modes of transport such as monorail and subway
 - Waste: solid waste management facility
 - Other sectors such as oil/gas mining, large-scale agriculture/irrigation/aquaculture

The CEA noted that it is willing to share experience in some sectors with Japan such as EIA for mini-hydro power plant.

3.3 Follow-up activities

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