GREATER MEKONG SUBREGION
CORE ENVIRONMENT PROGRAM

STRATEGIC ENVIRONMENTAL ASSESSMENT IN THE GREATER MEKONG SUBREGION
Recent Developments

Background Paper for the 5th GMS Environment Ministers' Meeting

The experience and capacity to conduct strategic environmental assessments (SEAs) has improved considerably in recent years in the Greater Mekong Subregion (GMS) countries. Governments in the GMS increasingly recognize the benefits of assessing the environmental implications of their policies, plans, and programs. This information note outlines recent SEA developments in five countries.

MYANMAR

The Environmental Conservation Department of the Ministry of Natural Resources and Environmental Conservation is responsible for environmental issues. SEA procedures or regulations in Myanmar still need to be developed, though the department is committed to gradually adopting SEAs to support of environmental planning processes. A provision for doing this is in the Environmental Impact Assessment Code, 2016 (Chapter 10, paragraphs 123 and 124).

The International Finance Corporation is supporting an SEA for setting up a hydropower database, to understand socioeconomic conflicts, and for developing a "sustainability analysis." The Government of Myanmar wants to draw up an SEA law, and is seeking help from development partners to do this.

Recent SEA studies include:

- Strategic Urban Development Plan of Greater Yangon, 2014 (JICA and YCDC).
- Myanmar Tourism Sector Wide Assessment, 2015 (MCRB, DIHR, and IHR).
- Myanmar Oil and Gas Sector Wide Assessment, 2014 (MCRB, IHRB and DIHR).
- Strategic Environmental Assessment of Phase 2 of the Development of the Thilawa Special Economic Zone.

SEA studies in the pipeline or planned include:

- Integrated Ayeyarwaddy Delta Strategy, (Government of the Netherlands, early 2018).
- SEA for offshore oil and gas development (Government of Norway, starts in 2018).
- SEA for Kyaukphyu Special Economic Zone (donor and start date unknown).

THAILAND

National SEA guidelines were developed in 2009, containing 10 steps for carrying out an assessment. SEAs and the use of the guidelines are not mandatory, but tare done at the discretion of the National Environment Board or Cabinet, and when large government projects are being considered or if projects become controversial. Over 20 SEAs have been conducted since 2009, along sector (e.g., energy, watershed management, waste management); area-based (e.g., tourism development in the Andaman Islands); and issue-based lines.

The Government of Thailand is reviewing its experience using SEAs under an Asian Development Bank–supported technical assistance project (TA): "Strengthening Integrated Water and Flood Management Implementation." In 2014, through this TA project, Thailand's National Economic and Social Development Board held a workshop on SEAs for officials from 12 government agencies. Momentum is building for a stronger SEA system that can contribute more effectively to environmental development planning and decisions.

Thailand's experience with SEAs has been mixed. Some high quality SEAs have reflected good practice. Water management line agencies are showing considerable interest to use SEAs to improve their planning, but there is uncertainty about how to proceed. So far, the full potential to use SEAs to strengthen strategic decisionmaking, and to reduce delays and problems at the project level, remains largely untapped.

Thailand's SEA system is based on the *ad-hoc* application of Cabinet and National Environment Board directives for individual cases. Cabinet directives do not require the systematic application of SEAs, and no legal framework for them exists. In sum, Thailand lacks an SEA system that combines firmness with flexibility, and the country needs a more systematic and less discretionary approach.

In 2005, the National Environment Board appointed an SEA subcommittee to propose an implementing framework for SEAs. Guidance was prepared to enhance the integration of environmental protection into sector policies and plans, also to promote more effective environmental governance by opening planning procedures to greater stakeholder participation.

In 2006 and 2007, the Office off Natural Resources and Environmental Policy (ONEP) and Planning held a series of workshops to develop the framework. The results included a proposed level of environmental enforcement; a list of policies, plans, and programs for which SEAs should be conducted; and procedures for preparing and approving SEA reports. The results suggested that SEAs should be legally enforced, and be carried out for policies, plans, and programs with potentially significant environmental impacts before any strategic or project decisions are made.

The National Environmental Board approved the guidelines in 2009, including a recommendation to government agencies to implement the guidelines. These agencies,

however, are not obliged to conduct SEAs unless they are directed to do so by the Board or the Cabinet. Hence, SEAs in Thailand remain largely conducted on a voluntary or discretionary basis.

Initially, a list of policies, plans and programs for which SEAs were mandatory was proposed in the draft guidelines. These included master plans, development plans, and 'megaprojects' (with a budget of more than THB 1 billion budget) involving land use, agriculture, mining, transport, industry, energy, the environmental services and water resource sector, provincial development plans. However, this list was not endorsed.

VIET NAM

Viet Nam's experience with SEAs is extensive with more than 40 undertaken at the sector, provincial, and national levels. SEAs are mandatory under article 12 of the Law on Environmental Protection, 2014. Decree No 18/2015/ND-CP lists the types of strategies and plans requiring SEAs. These include plans for river basins, power development, and all sector and provincial socioeconomic plans. Article 15 prescribes the content of an SEA report; article 16 stipulates how the SEA review process should work via review councils at national and provincial levels. The findings and recommendations of SEA's must be considered by plan makers, and integrated into plans.

The most significant recent regulatory development that will affect how SEA's progress will be a proposed new planning law. Recently, the Government of Viet Nam has been pursuing reforms of the socioeconomic planning system, because of concerns about the plethora of regulations on national, provincial, and sector planning, and how these regulations relate to each other. The third reading of the new planning bill took place in the National Assembly in June 2017. The Ministry of Planning and Investment's Department of Planning and Management expects the law to come into force in January 2019. The National Assembly, however, decided the bill needs more work, and its promulgation has been postponed. Once the new law is passed, it will be the most significant reform of the planning system since 1986 (and will require amendments to 32 other laws). The director general of the Department of Planning and Management has described the reforms as being "revolutionary," because of their focus on reducing the number of strategic plans, and significantly improved integration.

One important improvement to the sequencing of planning instruments will be the appraisal of SEAs before new planning instruments are themselves appraised. In the past, SEAs were not always done in parallel with the development of plans.

In 2015 and 2016, the Asian Development Bank, through the GMS Core Environment Program, helped the government draft a circular on environmental protection planning under the Law on Environmental Protection, 2014. It is likely that this work will be subsumed within the decrees and circulars that will need to be drafted once the new planning law is promulgated.

CAMBODIA

Cambodia has limited experience with SEAs. An SEA was conducted in 2009 for a tourism study supported by CEP. Despite this limited experience, interest is growing in doing more of these assessments, and SEAs are formally part of a proposed new environment and natural resources code, which is expected to be approved by the Council of Ministers in early 2018. Under the code, the National Council for Sustainable Development (NCSD) will be responsible for SEA, including establishing a cross-sector SEA committee.

During 2017, CEP advised the NCSD on the terms of reference for the SEA committee, and assisted the Ministry of Planning with information on environmental mainstreaming for Viet Nam's next five-year plan. In the absence of an environment code, the NCSD's deputy director asked for CEP's assistance to help draft a Prime Minister's Decision on SEAs. This would have effectively been an *ad hoc* version of a subdecree, and it would have provided some basic regulatory support for SEAs. A draft was readied in mid-2017, but the initiative has not proceeded because of the better-than-expected progress on completing the environment code.

LAO PDR

A 2012 revision of the Environmental Protection Law stipulates that SEAs should be used for assessing environmental impacts of sector policies, strategies, and programs. One of the most significant recent developments in strategic planning was the promulgation of the Ministry of Natural Resources and Environment's Decision 483 on SEAs. The authorities have intended to develop such a regulation since the Environmental Protection Law was revised; indeed, its article 19 mandates SEAs. The decision sets out the basic implementation principles, and stipulates that SEAs are required for policies, strategies, and programs undertaken by all development sector ministries. Implementing these SEA procedures is a priority.

As well as Decision 483, other recent SEA initiatives include the completion of a World Bank–supported strategic environmental and social assessment of the mining sector, and establishing a 20-member, cross ministry alumni group trained under the Government of Sweden's SEA International Training Program.