



Netherlands Commission for
Environmental Assessment

ESIA Review & SEA Regulations Workshop

Final Report

Zambia



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ESIA Review & SEA Regulations Workshop Report

To ZEMA
WWF Zambia
WWF-NL

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List of abbreviations

CSO:	Civil Society Organisation
EMA:	Environmental Management Act
ESIA:	Environmental and Social Impact Assessment
NCEA:	the Netherlands Commission on Environmental Assessment
NTS:	Non-Technical Summary
RAP:	Resettlement Action Plan
SEA:	Strategic Environmental Assessment
ToC:	Table of Contents
ToR:	Terms of Reference
WWF:	World Wildlife Fund
ZEMA:	Zambia Environmental Management Agency

1. Introduction

The NCEA is involved as technical advisor on SEA / ESIA in the Shared Resources and Joint Solutions programme (SRJS) of IUCN–NL and WWF–Netherlands. This collaboration is formalized in a MoU and one of the countries where this programme is being implemented is Zambia. In Zambia, the NCEA first conducted an ESIA needs assessment training together with WWF–Zambia, its CSO partners and ZEMA (May 2017) which resulted in a report with findings and recommendations to strengthen the ESIA / SEA systems. In a second mission (December 2017) the NCEA advised ZEMA on the revision of the ESIA regulations, facilitated a multi-stakeholder platform meeting on SEA and facilitated a CSO workshop for doing ESIA review.

The ESIA review workshop in December 2017 mainly targeted WWF–Zambia staff and its CSO partners. The ZEMA staff who were also present, approached the NCEA with a request to organize the same workshop for ZEMA staff. In addition, ZEMA has recently started a process of drafting SEA regulations and recruiting a consultant to lead this process between July–September 2018. Therefore, ZEMA invited the NCEA to share its experience and to give guidance in the formulation of the SEA regulations. To give follow up to these requests, the NCEA facilitated the following workshops between 17–20th of July 2018:

1. ESIA Review workshop (2 days) for ZEMA staff from Lusaka and field offices.
2. SEA Regulations workshop (2 days) for a range of stakeholders including ZEMA, CSOs and the Ministries of Water and Mining.

2. Goals and Planned Outputs

1. **ESIA Review workshop.** Although committed and well capacitated, ZEMA staff deals with number of challenges such as huge workloads, outdated checklists and bad quality of ESIA reports. This limits their ability to conduct timely and good quality review of ESIA reports. In this workshop the focus had been on training in skills to filter essential information in ESIA reports and to identify gaps in a relatively short period of time. The targeted output was increased awareness among ZEMA staff on key elements to look for in a report, increased skills in reviewing and improving the review checklist that they use in daily work.

2. **SEA Regulation.** SEA already has a strong base in the Zambian Environmental Management Act (EMA) and several SEA's have already been conducted or are being planned for activities like mining, hydro dams and petroleum. However, Zambia is yet to develop SEA Regulations which will provide guidance on the conduct of SEA in the country. Therefore, the workshop focus had been on discussing key SEA system elements and sharing examples from other countries. The targeted output was that several principles and preferences for key system elements would be formulated, which the consultant could consider in formulating the first draft of the regulation.

3. Notes ESIA Review Workshop (17–18 July 2018)

3.1 Summary Conclusions & Takeaways

1. An ESIA report must provide all the necessary information for decision making and be of good quality, before it can be approved.
2. When an ESIA report does not provide all information needed for a well-founded decision, such as information on the size and different components of a project and timing, or when the study is below standards, ZEMA staff should be able to send a report back without doing an in-depth review. Therefore, it is desirable for ZEMA to use a two-step approach. The first step is an initial assessment to see if all necessary information is delivered. Only in that case, the report would be considered suitable for review or otherwise sent back to the proponent for improvement. The review checklist should take this two-step approach into account.
3. Starting a review by reading the Table of Contents (ToC) and the summary is useful. These two things give a general picture of the key questions and the most relevant issues and to filter what is missing, without being caught up in the line of thinking and argumentation in a report.
4. There is a lot to gain by paying more attention to the scoping phase. By reviewing scoping documents, proponents can be steered towards more complete and better quality ESIA reports. This could reduce the time ZEMA staff spend on reviewing bad reports.

5. It is recognized that more attention should be paid to compliance with disclosure and stakeholder engagement requirements both in scoping and the ESIA review phase. An ESIA report must show how stakeholder comments have been considered and demonstrate that stakeholder engagement has taken place in a genuine manner.
6. Higher management in ZEMA need to ensure that all ESIA's are subjected to review by ZEMA staff without political interference.
7. ZEMA will consider reviewing the current review checklist based on the conclusions and the criteria identified during this workshop.

3.2 Opening and Setting Expectations

The ESIA review workshop was attended by 15 ZEMA staff members both from Lusaka office and satellite offices in Chirundu and the Copperbelt.

After the opening by Mr. Mwembela (Principal Inspector ZEMA), the NCEA gave a short introduction on the commission and its role in the Netherlands and at international level. Then, the participants were asked to stand on a line to indicate their level of confidence in reviewing ESIA's and to explain why they stand at that position. The staff members appeared to be well distributed along the line. Those with confidence indicated being knowledgeable about the procedures, processes and contents when dealing with ESIA's. Their expectation from this workshop were mainly to exchange and to learn from other colleagues and from cases outside of Zambia. In addition, they could share their knowledge with colleagues with less experience. Those who indicated to have less confidence, said they need more experience. They expected to become more confident with time, as they reviewed more project ESIA's. Those in the middle pointed out to be aware of processes and procedures in Zambia, but they sometimes felt they lacked the technical expertise to judge certain topics and sectors. Another reason they felt insecure was due to having difficulty with imagining the local situation if they had not yet visited the project area. In summary the following expectations were put forward by participants:

Improved skills on how to handle ESIA
 Exposure to internationally used tools for review
 Understanding of impact evaluation criteria and ranking matrix
 Sharing experience and knowledge in reviewing ESIA documents
 To learn other methods to review ESIA
 Compare ESIA in Zambia with other standard practices and identify inadequacies in our processes
 Quantitative tools in ESIA Opening and setting expectations
 The ESIA review workshop was attended by 15 ZEMA staff members both from Lusaka office and satellite offices in Chirumbu and the Copperbelt.

3.3 Brainstorm and Discussion: What constitutes a good ESIA?

As a warming up exercise, participants first discussed what they understand to be a good quality ESIA. They were asked to share what they consider to be criteria for ‘completeness’, ‘appropriateness’ (for decision making) and a ‘good quality’ ESIA. In the discussion and the subsequent exchange, the group agreed on the following:

Appropriateness for decision making
An ESIA must comply with the Zambian legislation and rules and it should show prove that consent was given by relevant authorities and agencies.
ZEMA procedures and requirements should be complied with, including: <ul style="list-style-type: none"> - requirements agreed during the scoping phase outlined in the approved ToR - requirements for public disclosure of the scoping report and the ESIA report and the inclusion of stakeholder comments
Project activities in all phases are clearly outlined in the report.
Completeness
A non-technical summary is included.
All necessary information and Annexes are added.
Baseline information (including socio-economic and ecological resources) is provided.
All relevant impacts are covered.
Mitigation measures are provided for all relevant impacts.
Project alternatives are provided and assessed.
Quality
The depth and method of the study is in line with the project (the question whether an ESIA, EPB, SEA).
Appropriate methods and approaches have been used to reach given conclusions.
Relevant expertise is engaged during the conduct of the study.
The information provided is in-depth, accurate, technically sound and quantitative where needed.

During this session the following discussion took place: when a report does not give a good overview of the project location, activities and impacts or compliance with laws and regulations is not immediately apparent, ZEMA is not able to make a sound judgement about a project. That means that the author of an ESIA did not do a good job. In such case it is not ZEMA’s responsibility to fill in those gaps. ZEMA staff are already overburdened with large numbers of ESIA’s. Some reports go back and forth between ZEMA and the proponent up to 3 to 4 times because of insufficiency. To prevent ZEMA wasting time on bad and incomplete reports, they should be able to return the report and request for more complete and better-quality information with instructions for improvement. Participants indicated that they appreciated this exercise because, as one participant mentioned, *it reminded them of the things they already know that they should be doing, but which they forget when caught up in day-to-day work.*

In this session the participants agreed that to be effective in review, ZEMA should take a two-step approach:

1. A quick assessment to verify whether the report complies with basic criteria for completeness, appropriateness and good quality. It is suggested that ZEMA develops a brief checklist with criteria, based on the outcomes of this brainstorm.
2. Only when a study passes the first review, ZEMA will continue with a more detailed review.

3.4 Basic Principles in Review

After the warming up brainstorm, the NCEA gave a presentation on the general principles and good practices of review followed by an exchange with the following conclusions:

- Through good screening procedures, it is possible to select and pay attention to projects with most significant impacts and limit the numbers of ESIA's.
- Scoping phase is a crucial to determine what is supposed to be done in an ESIA and to guide a proponent in the study. It is important that at scoping stage, all relevant stakeholders are in the picture and that they are meaningfully engaged in the process. Through a good scoping process, the quality of ESIA's could improve and review could be easier.
- Related to public disclosure, it was concluded that many proponents do not disclose the scoping and the ESIA reports, which is in contradiction with the Environmental Management Act. In addition, the quality of stakeholder engagement processes and the way comments are taken into account are not always genuine. It is necessary that ZEMA pays more attention to improving these practice among proponents.
- The length of a Non-Technical Summary depends on the complexity of the project. For a project covering a large area with multiple impacts, it will naturally be longer. One should use common sense to judge what is acceptable.
- In the Netherlands a distinction is made between a good project and a good ESIA and its review. ZEMA's formal position is officially similar because staff only reviews the quality of the ESIA while the Board decides about the project. However, proponents sometimes try to work around the ESIA review and find ways to create political pressure to approve ESIA's without review. This issue needs to be addressed at ZEMA's higher management level, to ensure that staff is able to fulfil their task.

Follow up agreed by participants:

- ZEMA staff will pay more attention to the scoping stage in order to guide proponents in the right direction and to ensure meaningful stakeholder engagement as early as possible in the process.
- It was agreed that ZEMA staff should be more alert on / pay more attention to compliance with disclosure and stakeholder engagement requirements as established in the EMA.
- Higher management in ZEMA need to ensure that all ESIA's are subjected to review by ZEMA staff without political interference.



3.5 Practicing Quick Review

3.5.1 Analysis Summary, Table of Contents and the ESIA report

Second part of the workshop started with an exercise where participants were divided into three groups and were asked to formulate questions to the proponent, based on the summary and the ToC of an ESIA. Two ESIA's were reviewed. The first one was a construction / upgrade of a 124 km road between Mazabuka and Lusaka. The second project was a project on replacing natural forests with eucalyptus and elephant grass in Serenje district. Both projects are still under review by ZEMA and the outcomes of this discussion could still be used in communications with the proponents. After reading the summary and ToC, participants came up with the following questions and remarks:

- The title and the non-technical summary are not in line with each other. Titles of both projects do not seem to reflect the project.
- Non-technical summary does not give a clear overview of the project. Consistent overview of activities (at different phases, the locations), impacts and measures are not given.
- Where is the scoping report / ToR? Is this included in Annexes?
- How is the baseline situation (with regards to ecological resources and socio-economic indicators)?
- Who are the affected stakeholders and how have they been engaged?
- How did land acquisition take place (is this conform the Lands Acquisition Act) and who will be resettled?
- Has there been public disclosure, stakeholder engagement and inclusion of their comments?
- Did the proponent engage relevant authorities to get consent and the necessary licenses? For instance for water (distraction), forestry, wildlife, waste?
- Why did proponents choose for the selected alternative? What is the justification? Were other alternatives also considered?

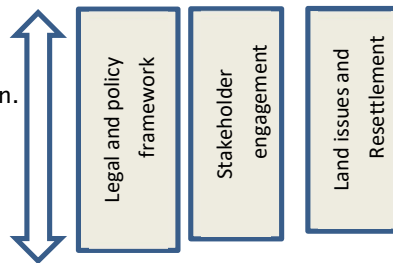
When reflecting on the exercise, participants indicated that in daily work the tendency was to skip the ToC and to dive into the main report to read the whole. By doing so there was a chance of getting carried away by the report's line of thinking and to lose focus on the key issues and gaps. As a participant indicated, a ToC does not seem significantly important, but this exercise has shown that it can disclose what to find and what might be lacking in a document. By starting with the ToC and the summary one can get a good overview of key issues and the points of attention.

As takeaway, ZEMA staff stated the intention to start ESIA review by reading the summary and ToC first and formulating key questions and key issues that should be covered in the report.

Once the questions for review were formulated by the three groups, it was possible to identify several topics that seem relevant to consider in all projects. After identifying these topics on the first day, the group started the second day with putting these topics in the logical order by considering which information is needed first to answer the following questions.

The group decided to start with the *title and the executive summary*, because these two should give a first overall impression. A non-technical summary should be simple and understandable to the general public since the rest of the document is more technical in nature. It could be interesting to have a technical summary as well, but this is not mandatory. The second topic was *project goals*. It should be clear from the start what the project is aiming at (as one participant put it: “The project is an arrow that makes its way towards the goal”) in order to appreciate how specific objectives and activities will contribute to this goal. Therefore, project activities follow the goal and these should be outlined in detail for different locations and stages, including decommissioning. A question raised was where to put the legislative and policy framework. On one hand the activities can reveal what legislation is relevant to consider. On the other hand, legislation can also be relevant in relation to potential impacts. It was therefore decided that the legal framework should be considered throughout different stages of an ESIA. A similar conclusion was drawn for stakeholder engagement because this is a cross cutting issue. Stakeholder analysis should also be done at early stage to learn who are affected and whether there is land acquisition and resettlement. At later stages this issue should still be kept in mind and the question whether all relevant stakeholders have been engaged. After project activities, *baseline information* was considered to be the next relevant topic: without a proper project goal and description there is no focus in the baseline environment information. Only when you know what kind of project will be installed, it is clear what kind of baseline information is required. Therefore an ESIA report should not touch upon all types of baseline information but be tailored down to the specific project and expected impacts. After project description and baseline information, *alternatives* were put as next topic: alternatives should be outlined first, so the impacts of different alternatives can be compared and a choice for a certain alternative can be justified. Once alternatives are clear, the assessment of their impacts logically follows. When the impacts are described, possible mitigation measures can be identified. The summary of the above discussion is as follows:

1. Title and summary.
2. Project goals.
3. Project activities / description.
4. Baseline information.
5. Alternatives.
6. Impacts.
7. Mitigation.



It was finally reiterated that this order shows that the project goal and description are an extremely important part of the ESIA: without a proper description of goal and activities, it will be difficult to evaluate the rest of the document. Therefore, it is better to send the ESIA back, in order to enable the proponent to add the required information.

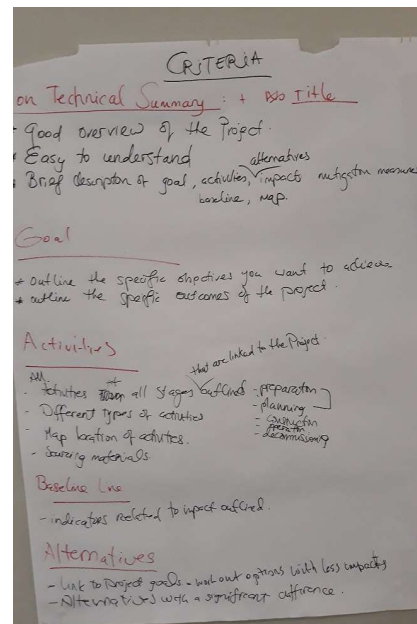
After identifying the key questions and topics and the right order to review questions, participants went back to their groups to do the actual quick review of the EISAs.

Topics identified	1 st group (Road project)	2 nd group (Road Project)	3 rd group (Timer harvesting project)
Non-technical summary (NTS) & title	Not all relevant aspects are covered. How the new road will lead to detouring (and solve digestion problem of Lusaka) is not well explained. The issue of resettlement is not clear.	The title does not give a good sense of what the project really does.	Title is not clearly linked to project. NTS does not give full picture of the project.
Project goals	Congestion release from Lusaka is the goal but that goal is not coming out in the study. Throughout the document, other different issues and goals are aimed at through planned activities.	Goals description is not done properly. Why is this project taking place? For the sake of whom? The report does not give clarity on this.	It is actually two projects in one. One goal is to harvest forest for biomass and second is a plantation. It is not indicated what the eucalyptus will be used for. There is in fact a history to this project. It is an existing company with change in operation. For some reason the company had to change their operation and come up with an alternative for using charcoal and to reduce deforestation. The proposed project is however not clearly an improvement / a serious alternative. The issue of harvesting will still exist.
Legal framework			Project takes place near protected forests and a permit is needed. Inventory was submitted to forest department but what was final decision? Are they allowed to harvest here?
Land acquisition	There is no clarity on how many houses will be affected (no quantification).	There is a RAP but it is not added to the report.	Land has been bought up from a chief. However the amount of land is higher than a chief is allowed to sell by law. Issues related to lands act and heritage act need to be checked.
Stakeholder analysis and engagement	Number of affected people is not quantified and it is not specified who are affected. Neither what the effects will be during different stages of the project.	Diverse stakeholders along the road need to be clarified to know how they will be impacted.	There is no stakeholder analysis. It is not clear how the forest (that will be harvested) is used by villagers nearby.
Activities	Where will the project take place exactly? Map is very unclear. Is this an existing road or an upgrade? Where will different activities take	Sites are not highlighted. It is not possible to know; is it a new road or the upgrading of an existing road? Because locations are not clear, one cannot tell if the roads will pass through	Missed out many issues like forestry inventory (what is there?) and how much they will be harvesting? What will they harvest while eucalyptus is growing.

	place (roads, bridge, camp site etc.)?	sensitive areas. Feasibility study is also not added.	Poor quality: it only touches on the surface. Not giving a clear idea of all phases.
Baseline	No statistics given on volume of traffic is given to pinpoint what problem is being addressed. Without baseline information it is not clear what the problem / goals are and how this project contributes to solutions.	Maps are not outlining: which roads exist and which will be new. There is no baseline information to understand the situation where the roads will pass.	No quantification of forests (forest inventory) and protected areas nearby. Are there animal corridors?
Alternatives	No serious alternatives provided for the route of the road.	Very diverse alternatives that cannot be compared. No clear alternative routes studied or alternatives given for location of the bridges (no location given at all). Because the baseline situation and activity locations are not clear, alternatives cannot be provided.	No alternatives for site given; why is for instance chosen to plant eucalyptus on natural forests instead of on degraded lands? It is not substantiated whether eucalyptus can be grown here with elephant grass. The viability of this is not studied adequately. Why is chosen for eucalyptus? They seem to try to create confusion.
Impacts	Impacts on people not outlined and these cannot be guessed because locations are not known. Will there be resettlement and how many people? The impacts of sourcing materials on land degradation are not brought forward in the study while it is likely to be a significant impact.	Positive and negative impacts are not exhausted. Particularly the issue of waste is unclear: how much waste will be produced?	No information on impacts on livelihoods and people. Impacts on water and soils are mentioned but not quantified. What will happen to the ground water levels in the area? The impacts of climate change are not mentioned either. Deforestation is alarming in this area and is being fuelled by such activities. This impact is seriously considered.
Mitigation measures		Mitigation measures are not sufficient and not covering all project impacts. Disposal facilities and domestic waste handling; Intention is to outsource waste management but not clear how well this will be managed.	Impacts are touched upon but no serious mitigation measures provided for impacts on soil and water quantity / quality. No mitigation for potential impacts like climate change and deforestation.

3.6 Components Review Checklist

Some participants noticed that the order of topics identified earlier on, differs from the review checklist ZEMA currently uses. It was then discussed to what degree it is useful to use a checklist. In many cases checklists could be misused as an exercise to 'tick the box'. This way a checklist diverts attention from the real important issues. On the other hand, checklists are very useful to have a consistent approach and to guide newcomers in the organisation in reviewing ESIA's. In general it was agreed that checklists are helpful but they should not be followed 'religiously'; they are a tool, not a goal in themselves. It requires from staff that in each and every case they have eye for the context specific issues that might not be covered in a checklist. Then someone pointed out that the new ESIA regulation creates legal requirements to work according to various formats. This was included in the law to give guidance and not intended to exclude other options. However, making checklist formats a legal requirement might need reconsideration. And since the regulations were not yet in force, there might still be room to change this requirement.



A follow up action to ZEMA is to consider making an amendment to the draft ESIA regulation about the (compelling status of) proposed checklists.

Having concluded that a checklist can be a guiding tool, the question was how ZEMA's current checklist is guiding staff in review. In general, the staff use the checklist and they find this to a certain degree very helpful. At the same time, it is quite a long list with repetition and in the light of the discussions and conclusions drawn earlier in this workshop, there is space for improvement. The topics and logical order identified in this workshop could be used as starting point to revise the current checklists with following criteria per topic:

Review Topics & Sequence	Criteria for quality / appropriateness / completeness ¹	Cross cutting (legislative framework, stakeholder engagement, land rights and resettlement)
Non-Technical summary and title	Title is a good reflection of the project NTS gives a brief overview of the project - Goals, activities, alternatives, baseline, impacts and mitigation measures NTS includes a map of project location.	NTS language is easy to understand for all stakeholders.
Project Goals	The report outlines the issues (why is this project needed?) and the (public) goals it aims to achieve.	
Project Activities	Activities are clear and specific for each: -area / location (including clear maps) -phase (construction, operation, decommissioning). -There is a clear relation between activities and goals -If relevant: there is attention for the sourcing of materials. The exact size of the project is clear.	Legislation and policies relevant for the activities are outlined. Public consultation and stakeholder engagement is done as early as possible. Public disclosure procedures have been complied with.
Baseline information	Indicators must be relevant to the project and its impacts.	Analysis / baseline on affected stakeholders included.
Legal and policy framework	Relevant laws and compliance assured Consent from authorities where relevant & documentation.	Information on land acquisition and compliance with relevant acts.
Alternatives	Alternatives outline options to reach project goal to prevent or lessen impacts. Alternatives chosen have a significance difference. Justification of chosen alternatives.	Stakeholders engaged in identification of alternatives.
Impacts	All impacts in scoping ToR are touched upon (direct / indirect, negative/positive, etc.). Method to measure and prioritise are sound and clear. Relevant expertise involved in study. The information is accurate and in depth (quantified where needed).	Impacts do not surpass thresholds set by law. Impacts on different stakeholders spelled out.
Mitigation measures	There are clear mitigation measures for identified impacts.	Stakeholders consulted on mitigation measures.
Annexes	Scoping and ToR added. Environmental and Social Management Plan added. Public disclosure, public hearings and stakeholder consultations are described.	Approval and permits from relevant authorities are annexed. Stakeholder engagement plan. If needed, Resettlement Action Plan is included.

¹ These criteria summarize the issues that were raised during the brainstorming and discussions throughout the whole workshop.

4. Notes SEA Workshop (19–20 July 2018)

4.1 Main Observations & Feedback

The aim of the two-day workshop was to facilitate the work of the consultant that will be hired to make the draft of the SEA regulations by discussing some important issues regarding the SEA process. These discussions can provide input for the development of the draft. The draft will be published in fall and will be open for input by the various stakeholders.

The main observations were:

- There was a need for explanation what SEA is, what it can be used for and what the differences with ESIA are and why it requires a separate regulation.
- It is not likely that the Section 23 of the Environmental Management Act will be revised soon. This section is therefore a fixed starting point for the development of the SEA Regulations.
- **Screening:**
 - Similar to the Platform meeting in December 2017, the water and mining policy were seen as the most important plans, programmes and policies (PPPs) that automatically require an SEA.
 - As criteria to determine whether PPPs require SEA, their claim on natural resources or that they can be cause for conflicts, can be considered.
- **Scoping:**
 - The level of detail of an SEA is different from an ESIA for a project. It depends on the level of detail of the PPP itself: an SEA for a national policy will be much more abstract and cannot entail discussion with every citizen. The scoping phase is therefore extremely important to determine with relevant stakeholders what level of detail is required for the SEA of the PPP in question.
- **Integration SEA and planning process:**
 - The way in which the SEA and planning process are integrated is dependent on the planning process of a specific plan.
 - It should be guaranteed that the SEA provides for the information that is needed in each step of the planning process.
- **Decision making:**
 - It is recommended that the entity that decides on PPPs, is also involved in the earlier process, including the decisions that are taken in the SEA process.
- **Stakeholder engagement:**
 - Stakeholders should at least be informed about screening decisions.
 - The executive summary of the SEA should also be published in the (local) language of the affected areas.
 - The level of engagement (information, consultation or participation) can vary for each step in the SEA process.
- There is need for coordination between the consultant drawing up the SEA regulations, various SEAs that are being conducted (water, mining), first experiences with the SEA guidelines, and experiences from stakeholders. It seems that ZEMA is best suited to coordinate this.

4.2 Welcome and Introductions

Mr, Constantino Mwembela (Principal Inspector ZEMA) and Mr Mwape Sichilongo (WWF Zambia) opened the workshop and welcomed everyone. They both stressed that this gathering is deliberately organised for a mix of CSOs and government institutions. Mr Sichilongo stressed that CSOs were keen to contribute to the positive steps that ZEMA and the Zambian Governments are undertaking in ESIA and SEA, while Mr Mwembela reiterated that ZEMA need others to realise its own ambitions. For this reason ZEMA thought it best that the workshop should be with both CSOs and government institutions. He referred to Section 23 of the Environmental Management Act (see Annex 3) where the general foundations for SEA are laid down. These foundations now need to be translated into concrete regulations and guidelines. The contract arrangements to engage a consultant to draft SEA regulations are currently ongoing. The workshop was aimed at introducing the SEA process and at contributing with discussions to the development of the SEA regulation. He stressed that NCEA's support in the development of the regulation would be highly appreciated. CSOs will also be invited to give input to the regulation.

Before starting up, the NCEA asked everyone to introduce themselves to another participant that they do not know yet and then share what they have heard of the other. From this introduction it became apparent that majority of the people (with few exceptions) had limited knowledge of and little experience in SEA. They pointed out a desire to know what SEA actually is, what are the different steps in the procedure, how it will help the country, to learn from experiences of other countries, as well as an explanation on the distinction between SEAs and ESIA's, and why it requires a separate regulation. With regard to the regulation, participants wanted to know what to expect in an SEA regulation. Some participants desired a full understanding of the CSO role in SEA process. The hope was expressed that SEA can cure some problems that communities are facing.

First the NCEA gave a brief presentation to introduce the institution and explained that it is an independent foundation, which is not part of government, and has a basis in the Dutch Environmental Management Act. The Act prescribes that SEAs and ESIA's for complex projects require review by NCEA and that reviewers may not have any interest in the projects that are reviewed. NCEA also reviews Terms of Reference for ESIA's and SEAs.

After the introduction the NCEA gave a presentation on what SEA is, what procedural steps it entails, how it differs from ESIA, and what it can do. The presentation also contained examples from other countries.

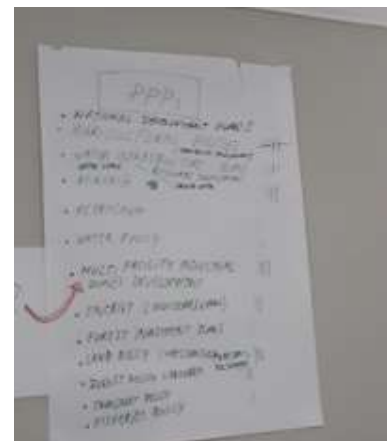
4.3 Screening

The NCEA introduced the first topic of this workshop by a brief presentation: the screening process in SEA. This process is intended to identify which PPPs require SEA. Some lessons from international practice are shared. It is recommended not to do SEA for legislation. Legislation deals more with moral questions and can be more politically sensitive. It is therefore more difficult to define options and to deliver relevant technical information. Emergency response is exempted from SEA due to the quick reaction that is needed. Defence is exempted because defence plans can contain highly sensitive information with regard to the national defence that cannot be shared with stakeholders. In most countries financial plans do not require SEA for it is highly political to determine how much money should be allocated to which sectors and projects. Because of its technical nature, SEA is not suited for such highly political questions. Another best practice is not start with too many SEAs in a country: it is best to start with one to five SEAs per sector, and that the number does not exceed 10% of ESIA's that are done in the country. There is limited capacity and resources for SEA in each country. Instead of dividing it over large numbers, it is better – at first – to focus on a few to have more influence, to gain experience and knowledge and to raise awareness. Only then more SEAs can be done. Limiting the number at the start will improve the quality of SEAs.

According to the SEA guidelines some PPPs automatically require SEA. This means that a positive list should be drawn up of these PPPs. Other PPPs should undergo a screening process to determine whether they can have adverse impacts and therefore require SEA. In groups the participants discuss amongst each other which PPPs according to them automatically require SEA and why. It becomes clear that the reason to require SEA is their claim on natural resources or that they can be cause for conflicts. It can be considered to insert these criteria in the SEA regulations as criteria for the screening process. After the results of each group were presented, a list was drawn up of the PPPs in the order of how much they were mentioned. Then this list was compared to the one that was drawn up during the Platform meeting that took place in December 2017. There are clear similarities: water and mining are highly demanded as SEA subject. This time agriculture and the multi facility plans score higher as a priority. On the other hand, the national development plan was not mentioned this time.

Overview Brainstorm and discussion: sectors and policies that should be subject to SEA

Priority sectors most often mentioned
Mining (including petroleum development and other minerals)
Water (both water infrastructure as for supply)
Agricultural policy (including Farm block development)
Multi-Facility Economic Zones
Forestry
Sectors / policies mentioned but fewer times
Energy (energy mix, possible risks of nuclear energy)
Land Policy
Fisheries
Transport policy



4.4 Scoping

The scoping procedure is the step in the SEA process where the direction of the SEA is set: which questions must the SEA answer, and which stakeholders need to be involved, how and when? In other words, what type of information is needed in SEA and who should be involved? Gijs presented two scenarios, namely from Pakistan and the EU. In Pakistan, a scoping brief is required before the study is started. It can be maximum five pages, should include spatial and temporal focus and a brief description of the plan, potential impacts, institutional set up and a public consultation plan.

The system of the EU is both different and similar. The European directive states that in preparing the SEA reasonable alternatives need to be taken into account. To determine which alternatives should be considered, the geographical scope and objective of the plan are the starting point.

Furthermore, the directive requires the used information and methods to be up-to-date. The level of detail of the plan should match the level of detail of the plan. For a global plan, such as a national policy, the SEA can be global as well, for a more detailed plan, the SEA should be more detailed. The directive also prescribes to bear in mind the stage in decision making. Between a national policy and a license for a project, there can be like an Integrated District Development Plan. Different plans at different levels and stages of decision making require a different SEA. Last but not least, the directive requires that relevant authorities are consulted on the desired scope and level of detail of the SEA.

Scoping is an important stage to specify the objective of the PPPs, to determine the desired contents of the SEA, and to make explicit how the SEA will be integrated into the PPP. The question is what should be included with regard to scoping in the Zambian SEA regulations. As mining and water policies were mentioned mostly as policies for which SEA should be required, participants are asked to discuss in small groups for these policies what should be content of an SEA. The answers of the various groups appeared to be similar.

This is a good overview as content requirements for an SEA. Number of points were made several times:

Priority topics for scoping mentioned
Description of the objective of the PPP: for example, is it about the type of mining or the location of the mines?
The focus and questions that should be answered in the study such as: <ul style="list-style-type: none"> o <i>Is the plan sustainable?</i> o <i>Should certain areas be excluded from the plan?</i>
Stakeholder identification and consultation plan.
Baseline information on the availability of resources and on the people, businesses and the environment that will be affected
Options/alternatives
Impacts
Mitigation measures



In all cases, it becomes clear that the level of detail is very different for a PPP than for projects. That this is still difficult is illustrated by the fact that most presenters of the results of their group mostly use the term 'project' instead of PPPs. For a policy on national level for example, it is impossible to look on a detailed level for baseline information and it is not necessary to go from district to district. The government has information of the ecological zones of the country and zones that are suited for farming. Furthermore, resettlement is normally not dealt with on policy level, but on a more detailed (project) level.

4.5 Integration SEA and Planning Process

Before closing day 1, the NCEA presented on various ways in which the SEA process and the planning process can be integrated. It was highlighted that this is one of the most challenging parts of SEA because planning processes are often complex and unpredictable. A plan at national level will have a different process and dynamics than a plan at a lower level, and the same goes for different sectors. Therefore, when designing the SEA it is important to understand the planning process (which the SEA tries feed into) as early as possible and try to align these two processes for optimal influence. There is no blueprint for integrating SEA into planning and a regulation needs to allow for flexibility to allow the SEA is tailored down to the planning process.

In the case of Tana Delta (Kenya) for instance, the SEA process was highly integrated with the Land Use Plan where outcomes during different steps of the SEA and the Land Use Plan iteratively influenced each other. In the case of Albertine Graben (Uganda) the SEA for a basin wide gas and oil plan, which was already formulated, helped to formulate recommendations for legislative changes and guidelines for the implementation of the plan at lower levels. In the third example, an SEA for the environmental vision of Province Drenthe in the Netherlands, the SEA and the vision were formulated in two separate processes resulting in two separate reports that did not communicate with each other. In this approach, the influence of the SEA on the plan was not in place.

After this introduction, the group exercise for the next day was explained. For this exercise three volunteers were needed to outline a specific planning process in Zambia, to allow the three groups to outline how SEA could be integrated into this planning process. Eventually, three persons volunteered for the following plans a) Wildlife Policy planning b) Water resources planning and c) the Mining Plan.

The next day, after opening and recap of previous day, participants split up into groups to discuss how SEA could be integrated into these planning processes.

Wildlife Management Policy & SEA

The group came up with the following process:

- First, a situation analysis should be conducted by an independent consultant.
- Then a report should be drawn up, that must be subjected to review by a steering committee.
- What follows is a validation stage, at different moments.
- The mother ministry (Tourism) comes up with draft policy.
- Cabinet reviews the draft policy, together with the situation analysis. Other ministries are involved as well.
- In case of inadequacies, the draft is sent back to the ministry of Tourism to address these inadequacies.



In this process the group identified three major decisions for which the SEA should provide information:

- Decision of the ministry of Tourism on the situation analysis, whether it is a true reflexion of the actual situation.
- Decision of the ministry of Tourism what to do with the review remarks of Cabinet.
- Cabinet approval.

According to the group, the following stakeholders should be engaged in the SEA and planning process: GRZ, wildlife business, CSOs, International organisations, traditional authorities and local communities.

The group identified the following questions for which the SEA could provide information:

- How much space of land will be allocated to wild life?
- Ownership.
- What are direct benefits to stakeholders?
- In what way does wild life contribute to the welfare of the country?

The added value of SEA for this policy would be to help raise these questions, and to make the scope broader than just tourism. Furthermore, SEA could avoid to go back and forth with the plan before adopting it. Lastly, if poaching is a problem, this can be addressed by the SEA.

Water Resource Management & SEA

The second group focused on a water policy. This bottom-up planning process should start with asking communities what they want. Do they want a borehole for example? The communities send it to the district to make a district plans. These are taken to a provincial level, and provincial plans are taken to the national level.

The group argued that SEA should start on a district level for baseline information, stakeholder engagement and information for decision making. They chose this level, because

an integrated district development plan also takes other issues into account. Then SEA should be done on provincial and national level as well, but not on community level.

The type of issues that will be dealt with are the location, the type of infrastructure, ownership and animal conflicts. The example of Kafue dam was given. After a mining project was established, there was no water left and the dam became useless. This could have been avoided by an SEA were the cumulative impacts of the different projects were taken into account.

Mining Programmes & SEA

The last group looked at a mining programmes. They came up with the following steps:

- First the history of mining is investigated.
- The legal framework is taken into account.
- The Ministry of Mines requests cabinet for guidance.
- Stakeholder engagement: ZEMA, CSOs, other ministries. The different institutions have to validate the information.
- The Ministry decides based on legislation.
- Key stakeholders need to give approval.
- Then approval by Ministry.

Questions for which an SEA could provide information are:

- How does mining contribute to the sustainable development of the country?
- What is the desired technology of mining (open pit)?
- Social impacts: does the host community have skilled personnel? Also: it should be taken into account that schools around the mine will receive a lot more pupils.
- Resettlement issues.
- It is important to decide at the start which questions should be dealt with in the policy. Then the SEA can focus on these issues.

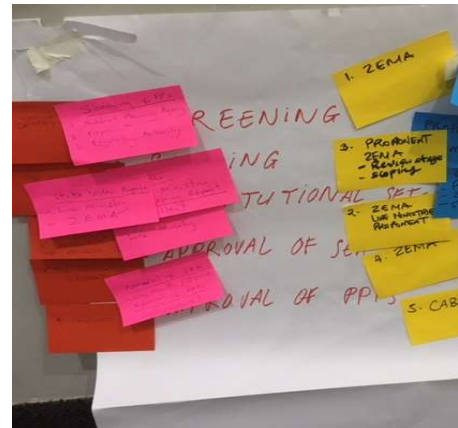
4.6 Decision making

There are different choices to be made in a regulation with regards to decision making. In a presentation Gijs briefly outlined that decision making is determined by the institutional and legal framework in a given context (under which legislation is SEA brought under?). Other decisions concerns the question who owns the SEA process and who takes what decision at different stages (screening, scoping, reviewing scoping and SEA and reviewing and approving the plan). Examples from different countries show that these questions can be handled in different ways. In Indonesia for instance, the owner of the SEA is the proponent while the environmental agency approves the scoping and the SEA study. An interesting trait of this case is that in Indonesia the planning agency that approves budgets, only allocates the funds when an approved SEA is attached to a plan. In Tanzania it is also the proponent who owns the SEA process, while the Vice President's Office is responsible for the conduct of the study. In this case the role of the environmental agency equivalent to ZEMA does not play a major role in SEA. In the case of South Africa, there is no legal procedure at all and the environmental agency determines the SEA process case by case.

With these examples in mind, participants were divided in groups to outline what decisions are to be made during the SEA process and which entity should decide. It was also

highlighted that in the Zambian case, the EMA gives ZEMA the authority to review and approve SEA's; this is the reality that needs to be taken as starting point. Different groups came with different solutions and conclusions:

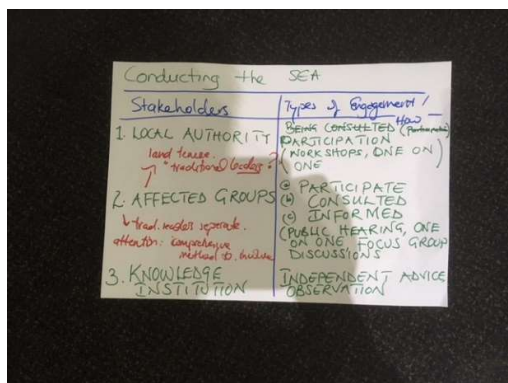
Who should be responsible for decision making in screening ?
ZEMA, because the EMA states so
District development coordination committee and provincial committee
Ministry of national planning
The Cabinet
The National planning authority and the Proponent
Who should coordinate the SEA process?
ZEMA and stakeholders
Multi-sector Committee
The line ministry
How should scoping be done?
The line ministry and ZEMA decide on stakeholders to engage
The line ministry sets up the ToR with a consultant
Proponent makes a draft and TOR and ZEMA approves
Stakeholders need to be engaged properly
Proponent does scoping/draft and ToR, ZEMA approves.
Who should approve SEAs?
ZEMA because it is their mandate
Chair of the permanent secretary
Who should approve PPPs?
The Cabinet
PDCC, the Ministry for each PPP



It became clear that during the whole process there are several decisions to be taken. International experience has learnt that for the SEA to have influence in the decision making process the entity that decides on the PPPs should be involved in the SEA process, for example by creating inter-ministerial steering committees. From the results of the different groups it should be noted that Cabinet is seen as the one that decides on many policies, but is barely involved in the earlier process and therefore is not seen as an entity that decides on steps in the SEA process. It seems worth it to reconsider this for the SEA regulations.

4.7 Stakeholder Engagement

Before discussing the last topic, the NCEA gave a presentation on stakeholder engagement to outline that there are many different ways in which stakeholders can be engaged, from providing information up to facilitating initiatives from stakeholders. The participants were then divided into five groups that each discuss stakeholder engagement of one step of the SEA process: screening, scoping, review of scoping, conducting the SEA and review of the SEA. They discussed who should be responsible to organise and finance stakeholder engagement, and what type of engagement is desirable from stakeholders at different stages of the SEA.



Desired participation by stakeholders at different stages	
<p>Screening:</p> <ul style="list-style-type: none"> Local authorities, through participation. Line ministries. Consultants, can be used for advice and participation 	<p>Scoping</p> <ul style="list-style-type: none"> All the affected groups have to participate, because they might oppose the plan. Interested groups. Consultants. Local authorities. CSOs and CBOs.
<p>Conducting the SEA</p> <p>The fourth group came up with the following stakeholders for conducting the SEA:</p> <ul style="list-style-type: none"> Local authorities. Affected groups, participated, consulted, informed. Knowledge institutions, for independent advice and observation. 	<p>Review of scoping</p> <ul style="list-style-type: none"> Line ministries and agencies, because they also have a role in decision making. Knowledge institutions, to receive more knowledge. Affected groups, being informed and being consulted. <p>Local authorities, participation, being consulted.</p>
<p>Review of the SEA</p> <ul style="list-style-type: none"> CSOs and CBOs, observation, advice and participation. Local authorities: decision making is one of their key issues, but also implementation and participation. Line ministries and agencies: decision making and implementation, influence the implementation, participation. Knowledge institutions have libraries and knowledge that could be used. 	

Some highlights of the discussion when the above was presented:

Screening: For some plans you need clearances from local authorities before you can go on. There is some discussion on whether CSOs should be involved in the screening process. There is consensus that they should at least be informed about the screening decision.

Scoping: The stakeholders should be informed by advertisement in media for a certain period of time.

Review of scoping, there was some discussion on the language in which the document should be published, thinking of traditional users. Is it not costly to put it in local language, especially for PPPs that deal with a large part of the country? Everyone agreed that it is better to translate the executive summary in language of the affected areas.

It was clear to the participants that there is a difference between information, consultation and participation. Information is one-way, bringing information to stakeholders. Consultation

is two-way: you inform and then receive information (comments, suggestions, ideas) from stakeholders. Participation can even go further, for example working together on documents. It is clear that there is no need for the same level of participation for each step in the process. Everyone agreed that the proponent takes up the cost of scoping.

One point of discussion was classification of traditional leaders. Traditional leaders always belong to affected group but they also have another position as community leaders; therefore they should be seen as a separate group. Sometimes they should be consulted because as land owners. In the SEA regulations it can be left open whether they should always be engaged or it can be prescribed that this is always mandatory.

It is also pointed out that nationally operating CSOs are often missed as affected groups. This should be taken into account.


The affected groups will normally not be the ones that hold the pen. But conventional methods of engaging might not be enough.

Monitoring was discussed. Because of limited time this step of the process was not covered by this workshop. It is of course an important aspect of SEA. Furthermore, CSOs can play an important role in monitoring, because the monitoring capacity of an agency is always limited.

4.8 Feedback and follow-up

Before closing the workshop, the participants are asked to share their takeaways of the workshop and their future training needs. These are summarised in the following table.

Takeaways	Training needs
SEA is at a higher / broader level than EIA but applies to PPP and not site specific.	Criteria to use for selecting who should participate in the SEA, coming up with SEA guidelines.
SEA requires trained people to develop the guidelines.	Review of SEAs and how SEAs can be monitored, review SEA reports and critical issues to look for. Tools in SEA reviewing.
Experiences, contents, stages of SEA in formulating a good SEA.	USB sticks should have been given to us earlier so that we would fully understand the concepts.
Difference EIA and SEA (4x).	Sensitize stakeholders on SEA.
Stakeholder engagement is important in SEA and right stakeholders should be engaged at a particular stage of the SEA process – relevance of different stakeholders during decision making.	Improving a sector based SEA to a more country wide SEA (2x).
How SEA could be integrated into planning and need for SEA during planning.	Actual engagement in the SEA process.
The need to have SEA. It is an important tool because it looks at a number of issues to consider in an activity, to determine its outcomes and understanding its relation to PPPs. SEA can be applied at different levels and important to start early when options are still open. SEA tool and process.	Conduct actual SEA to put what I learnt into practice – exposure to actual SEA process, conduct SEA in detail and SEA writing, implementing SEA, exposure to an actual SEA process, implementation and monitoring phase, tools in application, SEA process, tool kit that we can share with colleagues, networks and CSOs.
Need for legal framework both for ESIA and SEA.	Monitoring SEA (2x).
Scoping stage is important for both SEA and EIA.	More time for exercises.
SEA process and procedures and understanding this process and what to consider.	Exact SEA process recommended for results (design a good SEA).
In depth understanding of PPPs types of engagement at different stages.	Improve independence of the institutions of persons authorities to review and approve SEA.
Key and important steps in an SEA and PPP and relevant stakeholders involved and who final decision makers are in PPP and SEA.	More practical examples in Zambian context.
International examples where a SEA was applied.	

<p>My expectations was to see how SEA is applied in other countries and examples given have fulfilled my expectations. Moreover, the workshop broadened my knowledge base of SEA and my confidence in the area.</p>	
<p>Insight in what SEA regulations involve, role of SEA in planning and decision making.</p>	
<p>How to conduct SEA: the process was elaborated. Now I know that SEA has to be undertaken on critical sectors and PPPs. Not all PPPs should be subject to SEA, screening is essential. At each stage appropriate stakeholders should be identified otherwise the process becomes expensive.</p>	
<p>Learnt a lot: what SEA is, contents, conduct, procedures, stakeholders and benefits.</p>	

Last but not least, the NCEA drew attention to the fact that there will be different tracks at the same time: the consultant drawing up the SEA regulations, various SEAs that are being conducted (water, mining), first experiences with the SEA guidelines, and experiences from stakeholders. It would be an idea to try to coordinate these different tracks. The question is who will be the coordinator and how coordination is best managed. This might be a role for ZEMA, as they will be working closely with the consultant.

One participant suggested to continue interaction on SEA with the participants of the workshop, for example via WhatsApp. Others respond that they see this as an interesting suggestion.

Mr Mwembela emphasized that drafting the SEA regulation is a participatory process as required by law, which includes consultation of various stakeholders. Now we have appreciation on what it is, what PPPs require. With these appreciation we will have meaningful engagement with the consultant. The draft will be published in fall with a call for comments and inputs.

Mr Sichilongo expressed his gratitude for the mix of the group, the interaction with the regulators and the privileged space that creates energy for going forward.

Mr Mwembela closed the workshop.

Annex 1: List of Participants



SEA/ESIA WORKSHOP: ZEMA–NCEA–WWF–Zambia

Venue: Chrismar Hotel

ZEMA STAFF

S/N	NAME	ORGANISATION
1	Maxwell Mbewe	ZEMA
2	Constantino Mwembela	ZEMA
3	Mwape Kamanga Kasapato	ZEMA
4	Alick Makasa	ZEMA
5	Peter Mwanza	ZEMA
6	Catherine Mukumba	ZEMA
7	Mulala Mulala	ZEMA
8	Benson Chongo	ZEMA
9	Moses Mutambala	ZEMA
10	Kasonde Bertha	ZEMA
11	Karen Banda	ZEMA
12	Harold Kalaba	ZEMA
13	Juliana Kasonde	ZEMA



SEA/ESIA WORKSHOP: ZEMA–NCEA–WWF–Zambia

Venue: Chrismar Hotel

Date: 17–21, 2018

DIFFERENT STAKEHOLDERS

S/N	NAME	ORGANISATION
1	Alick Makasa	ZEMA
2	Mwape Kamanga Kasapato	ZEMA
3	Constantino Mwembela	ZEMA
4	Harold Kalaba	ZEMA
5	Peter Mwanza	ZEMA
6	Mulala Mulala	ZEMA
7	Catherine Mukumba	ZEMA
8	Moses Mutambala	ZEMA
9	Maxwell Mbewe	ZEMA
10	Benson Chongo	ZEMA
11	Juliana Kasonde	ZEMA
12	Maxwell Nkoya	ZEMA
13	Leyla Özay	NCEA
14	Haggai Mulenga	EITA
15	Muketoi Wamunyima	PELUM ZAMBIA
16	Steven Nyirenda	ZCCN
17	Hantambo Stanley	MWDSEP/DWRD
18	Mwape Sichilongo	WWF
19	Kasonde Bertha	ZEMA
20	Mwale Humphrey	ZEMA
21	Marjorie Mwale Lusaka	DWRD/MWDSEP
22	Noah Chongo	ZCBNRMFORUM
23	Tumiya Joseph K	GLM
24	Patrick K kabanda	ZCCN(UNZA)
25	Willie Kalunga	ZNRDP
26	Mwiya Mwandawande	EITA
27	Gijs Hoevenaars	NCEA

Annex 2: Workshop Programme

ESIA Review Workshop

When	What
Tuesday 17 July	
9.00-9.15	Opening by ZEMA
9.15-10.15	Introduction workshop, setting expectations and goals (start with level of confidence with ESIA review – line up. Then formulate goal)
10.15-10.45	Presentation and discussion 'Introduction to ESIA review'
10.45-11.00	Break
11.00-12.30	Exercise – read Table of contents and summary and formulate questions
12.30-13.30	Lunch
13.30-14.15	Groups present their questions & Clustering
14.15-15.00	Go back to groups – put questions in the right order
15.00-15.15	Break
15.15-16.15	Present question list and discuss
16.15-17.00	Look back, wrap up and close day 1
When	What
Wednesday 18 July	
9.00-9.15	Opening and Recapturing Day 1
9.15-10.30	Group Exercise – start reviewing ESIA
10.30-10.45	Break
10.45-11.15	Continue review
11.15-12.30	2x presentations and discussion
12.30-13.30	Lunch
13.30-14.00	1x presentation and discussion
14.15-15.00	Reflect on current assessment framework (possibly groupwork to review the checklist)
15.00-15.15	Break
15.15-16.0	Agree on adaptations and changes to current ESIA Review Framework
16.00-16.30	Looking back at expectations and lessons learnt (line up confidence – has anything changed? Did you meet your goal) (take away – what will you do differently?)
16.30-17.00	Workshop Evaluation and Closing

SEA Regulations Workshop

When	What
Thursday 19 July	
9.00-9.15	Opening by ZEMA
9.15-10.00	Introduction & getting acquainted
10.00-10.30	Look back: earlier meeting & agree on workshop outputs
10.30-10.45	Break
10.45-11.00	SEA & some lessons
11.00-12.30	Screening (10 minutes pitch – 20 minutes group work (app 4 groups) – present & discuss)
12.30-13.30	Lunch
13.30-15.00	Scoping (10 minutes pitch – 20 minutes group work – present and discuss)
15.00-15.15	Break
15.15-16.30	Integration SEA and PPP -part 1
16.30-17.00	Wrapping up and Closing Day 1
When	What
Friday 20 July	

9.00-9.15	Opening and Recapturing Day 1
9.15-10.30	Integration planning and SEA process -part 2
10.30-10.45	Break
10.45-12.30	Decision making in SEA
12.30-13.30	Lunch
13.30-15.00	Stakeholder participation and transparency
15.00-15.15	Break
15.15-16.00	Looking back and the Way forward
16.00-16.45	Evaluation and Closing

Annex 3: Environmental Management Act Article 23

(1) The proponent of a policy, programme or plan that could have an adverse effect on environmental management or on the sustainable management and utilisation of natural resources shall conduct a strategic environmental assessment of the draft policy, programme or plan and present a strategic environmental assessment report to the Agency, for approval.

(2) The proponent referred to in subsection (1) shall not adopt or implement the policy, plan or programme, which is not approved by the Agency.

(3) A strategic environmental assessment report prepared under subsection (1) shall include —

(a) a full description of the policy, programme or plan and the objectives it intends to achieve;

(b) an identification, description and assessment of the positive and adverse effects that the implementation of the policy, programme or plan is likely to have on the environment and on the sustainable management of natural resources;

(c) an identification, description and assessment of the likely effects of the alternative means to achieve the policy, programme or plan;

(d) an identification, description and assessment of a range of practicable measures that could be taken to avoid, mitigate or remedy any adverse effect that may occur as a result of the implementation of the policy, programme or plan; and

(e) any other information prescribed by the Minister, by statutory instrument.

(4) Where any proponent considers that a policy, programme or plan, does not require a strategic environmental assessment under this section, the proponent shall submit a draft of the relevant document to the Agency and the Agency shall, as soon as practicable, determine whether or not an assessment is required and shall inform the proponent accordingly, in writing, and the reasons therefor.

(5) A proponent shall, after receipt of the decision of the Agency in relation to the strategic environmental assessment report submitted by the proponent, review the policy, programme or plan taking into consideration the strategic environmental assessment report and shall submit the following documents to the Minister and to the Agency:

(a) the revised strategic environmental assessment report; and

(b) a report indicating—

(i) the revisions made to the original document in order to promote environmental protection and the sustainable management of natural resources or to avoid, mitigate or remedy any adverse effects which the implementation of the policy, programme or plan, may have had; and

(ii) any other measures that have been, or will be taken to avoid, mitigate or remedy any adverse effects, and when these were or will be taken, and if any measures recommended by the assessment report have been or will not be taken, the reasons for not doing so; and

(iii) a revised version of the policy, programme or plan.

(6) Where the Agency considers that the environmental concerns raised during the strategic environmental assessment process are not adequately addressed by the policy, programme or plan, and that additional cost-effective measures to avoid or mitigate the adverse effects should be taken, the Agency shall, within thirty days of the receipt of the documents referred to in subsection (5), lodge an objection with the proponent and consult with the proponent with a view to reaching an agreement on the amendments to be made to the policy, programme or plan in order to give full effect to the purpose and principles of this Act.

(7) Where the Agency and the proponent are unable to reach agreement on the amendments to be made to the revised policy, programme or plan, or the measures to be taken, the Director-General or the proponent may lodge a notice of objection with the Minister.

(8) The Minister may, upon receipt of the notice under subsection (7), order the documents referred to in subsection (5) to be subjected to public review or a public hearing before making a final determination.