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Title: Ensuring Social and Environmental Sustainability of the Belt and Road Initiative in Cambodia based on Experiences from China

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**Ensuring Social and Environmental Sustainability of the Belt and Road Initiative in Cambodia
based on Experiences from China
Nguon Pheakkdey and Vann Yuvaktep**

Abstract

A central component of the Belt and Road Initiative (BRI) entails large scale infrastructural construction projects that will pass through countries across Africa, Asia and Europe. Proponents argue that the BRI will contribute to Cambodia's economic growth since it connects Cambodia initially to the ASEAN regional economic networks and subsequently to the Pacific and ultimately to the world. Critics instead question the extent to which projects such as those financed through the BRI would encourage full and effective participation of affected parties, particularly those that are most vulnerable. They argue that the lack of full and effective public participation is a major obstacle in ensuring that infrastructural construction projects in countries such as Cambodia deliver its supposed benefits while mitigating its social and environmental risks. In this context, this research engages with literature on participatory and procedural environmental rights (Knox 2016) to identify ways in which effective public participation could be enhanced in the Cambodian Environmental Impacts Assessment (EIA) process, particularly for projects that are linked to the BRI. To empirically explore this question, we compare the experiences from the recently completed New Beijing Airport with the upcoming construction of the Koh Kong Airport, a project backed by Chinese-owned firm Tianjin Union Development Group. Methodologically, this study utilizes qualitative comparative analysis which includes key methods such as semi-structured key informant interviews and extended archival research. This paper makes the central argument that a robust EIA process where the public is meaningfully and effectively engaged remains a crucial step toward achieving the goals of meeting economic development and mitigating environmental impacts. This is largely feasible provided that the state, through its legal instruments, adopts a more open, representative and participatory process in its approval of large scale development projects, such as those that are being realized through the BRI.

Short Biography:

1. **Dr. Nguon Pheakkdey** is a Research Coordinator at the Department of International Studies, Royal University of Phnom Penh. His research focuses on Climate Change, Sustainable Infrastructure, and Environmental Management. He is currently the Lead Researcher for 1) Comparative study on processes to develop national REDD+ strategy in Cambodia, Myanmar and Thailand; and 2) Ensuring social and environmental sustainability of the Belt and Road Initiative. In addition to academic work, Pheakkdey works as an Environmental Consultant for the Asian Development Bank and United Nations Development Programme. Pheakkdey holds a PhD in Human-Environment Geography from Clark University, United States, Fulbrighter.
2. **Mr. Vann Yuvaktep** is a Lecturer in Law for the English Language Based Bachelor of Law Program (ELBBL), Royal University of Law and Economics. His work concentrates on legal aspects in mega infrastructure development, including decision-making processes, financing structures, and environmental safeguards. He is currently writing a page for Open Development Mekong on international infrastructure financing frameworks in the Lower Mekong region, which touches on Chinese financed infrastructure projects under the Belt and Road Initiative. Yuvaktep is a New York licensed attorney, holding a LL.M. in Environmental and Energy Law from New York University School of Law, Fulbrighter.



Belt and Road Initiative: Ensuring Environmental and Social Sustainability

DR. NGUON PHEAKKDEY AND MR. VANN YUVAKTEP



七星海旅游度假区机场建设项目部

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一带一路打造全新发展空间

发展一带一路
提高经济密度
缩短经济距离
打破壁垒分割

DARA SAKOR
七星海
七星海旅游度假区

七星海旅游度假区国际机场项目



七星海旅游度假区国际机场项目

项目介绍

- 七星海国际机场位于七星海海滨旅游度假区南段东部的达怒恩村，东南方向距离西哈努克港约54km，西北方向距离国公省省会约50km，距天津优联集团公司基地约15km。
- 跑道长度3200m，机场飞行区指标规划为4E，为柬埔寨最高级别机场，可起降B747-400以及A340-600等大型宽体飞机。跑道主降方向为由南向北，跑道磁向为 028° — 208° ，磁差 0.5° 西。规划分近期和远期，近期占地面积约为298.6ha。远期占地面积约1000ha。
- 一期游客吞吐量可达到200万人次，货邮吞吐量约为900吨。二期游客吞吐量可达1100万人次，货邮吞吐量可达41000吨。一期新建航站楼 2.0万m^2 ，二期航站楼面积规划为 10.5万m^2 。一期规划停车场面积约为 20000m^2 ，二期规划停车场达 9万m^2 。



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优联集团





តារាសាគរ

DARA SAKOR

七星海



តំបន់វិស្សមកាលទេសចរណ៍តារាសាគរកម្ពុជា Cambodia DARA SAKOR Seashore Resort

សូមអញ្ជើញមកកាន់ស្តង់តំបន់វិស្សមកាលទេសចរណ៍តារាសាគរកម្ពុជា នាពិធីបើកឧប្បាហកម្មសំណង់កម្ពុជា ២០១៥ នៅថ្ងៃទី ៣-៥ ខែធ្នូ ឆ្នាំ២០១៥ នៅមជ្ឈមណ្ឌលសន្និបាតនិងពិធីបណ្តុះបណ្តាល ក្នុងនោះយើងនឹងមានបង្ហាញនូវគម្រោង វិន្យាណូលកាយដ៏ប្រណិត ដែលជាជម្រើសល្អបំផុតសម្រាប់ការវិនិយោគនិងទេសចរណ៍

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Background/ Assumptions



- ▶ Environmental Impact Assessment (EIA) is an effective tool to identify and mitigate social and environmental risks, and thus enhancing the benefits from development projects
- ▶ EIA requires full and effective participation of project affected parties, particularly those that are most vulnerable
- ▶ Mitigating risks and enhancing benefits from Belt and Road Initiative's development projects require EIA with full and effective participation of project affected parties

Research Objective/ Questions

- ▶ Objective: Compare EIA legal framework in Cambodia and China, examining how they address issues related to public participation.
- ▶ Guiding Questions
 - ▶ What are the recent government efforts to clarify the roles of and to increase public participation in China and Cambodia's EIA process?
 - ▶ What are the challenges that both governments faced in their efforts to increase public participation in EIA process, particularly for infrastructure projects?
 - ▶ Given that EIA as a legal instrument existed in China since the 1970s, what lessons have China learned in terms of ways to increase public participation in infrastructural construction projects?
 - ▶ To what extent, could those lessons be applicable to the BRI's proposed activities in Cambodia to ensure its social and environmental sustainability?

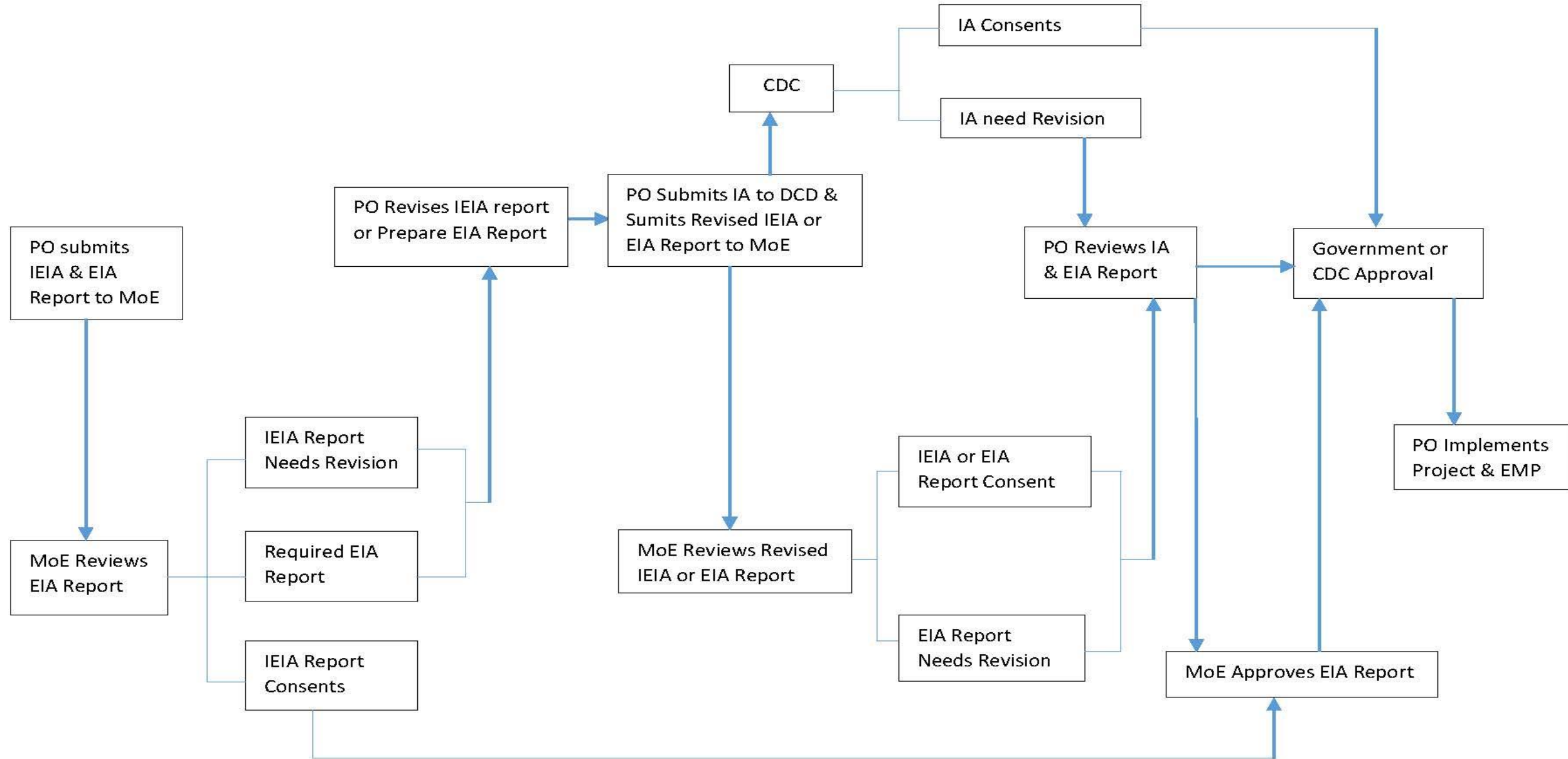
Research Design

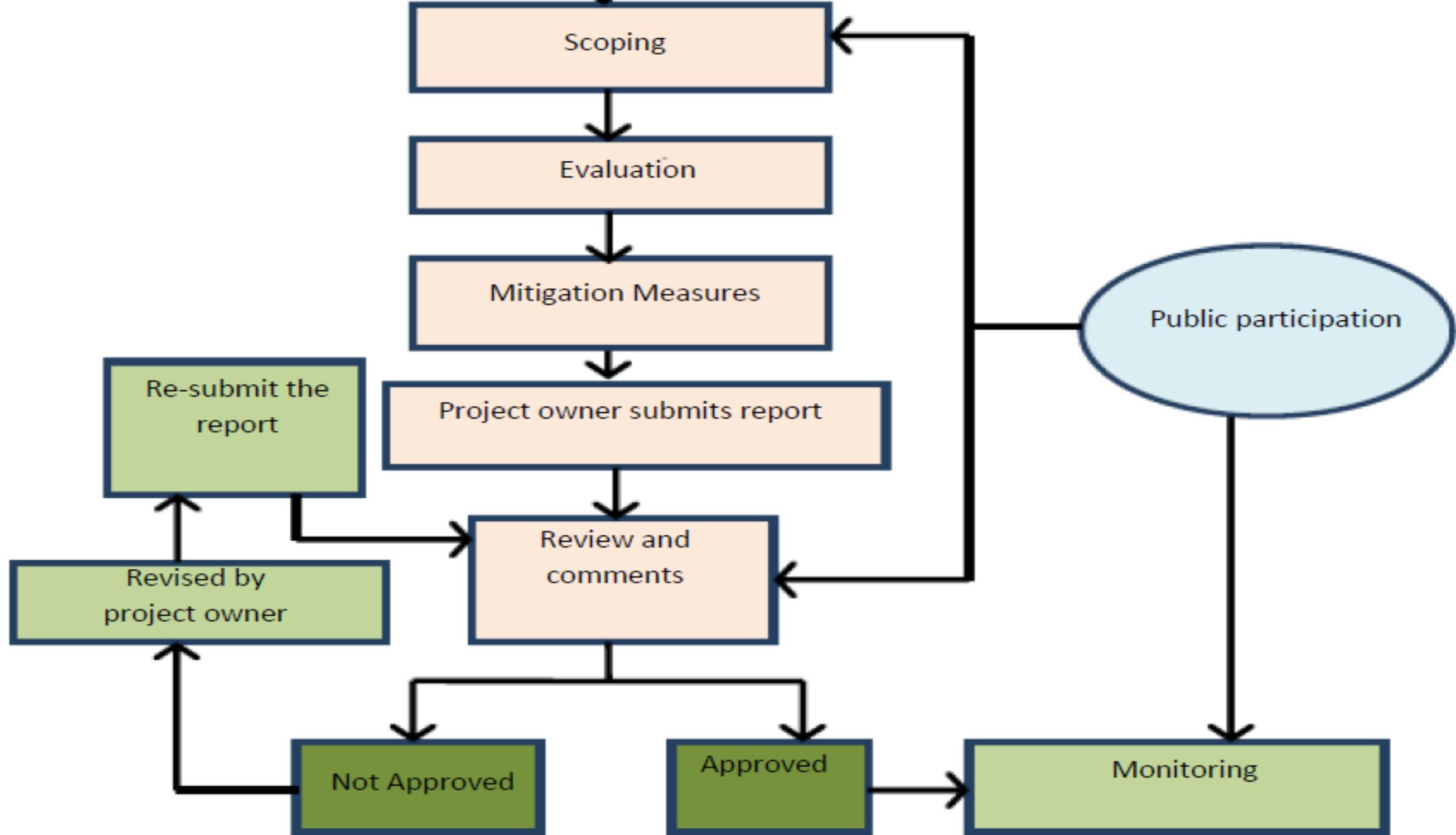
- ▶ Case studies
 - ▶ New Beijing Airport, China
 - ▶ New Koh Kong Airport, Cambodia
- ▶ Data Collection and Analysis
 - ▶ Desk Review
 - ▶ Government policies, laws, regulations, plans
 - ▶ Academic articles
 - ▶ Site Visits
 - ▶ Key informant interviews

Provisions related to Cambodia EIA

- ▶ Law on Environmental Protection and Natural Resource Management (1996)
- ▶ Law on Protected Area (2008)
- ▶ Sub- Decree on Environmental Impact Assessment Process (1999)
- ▶ Sub-Decree on Water Pollution Control (1999)
- ▶ Sub-Decree on Solid Waste Management (1999)
- ▶ Sub-Decree on the Control of Air Pollution and Noise Disturbance (2000)
- ▶ Joint Prakas between MoE and MEF on the Establishment of Service fee for Reviewing report of EIA and Monitoring the Project implementation (2000)
- ▶ Prakas on Delegation of Power to Municipal/Provincial Department of Environment to Decide on Project Development (2005)
- ▶ Prakas on General Guideline for Preparing Initial Environmental Impact Assessment and Full Environmental Impact Assessment Report (2009)

Preliminary Findings





Sample outline of an initial & full EIA report

- ▶ Summary
- ▶ Introduction
- ▶ Legal framework
- ▶ Project description
- ▶ Description of existing environmental resources
- ▶ Public participation
- ▶ Environmental impact assessment and mitigation measures
- ▶ Environment management plan
- ▶ Analysis on environmental damage and economic gains
(for full EIA report only)
- ▶ Conclusion and recommendations.

Preliminary findings

► Interviewees

- Cambodia's legal framework for conducting EIAs is incomplete
- Ensuring integrity of the EIA process is respected
- Significance of EIAs is not fully recognized by, for example, many of the government ministries responsible for infrastructure or industrial and agricultural development

► Since 2010, MoE has received technical support from the Chinese Appraisal Center for Environment and Engineering, which operates under China's Ministry of Environmental Protection.

“我们希望这样的活动，今后每三个月就能举办一次，每年至少有一次全年总结性的交流活动。”柬埔寨环保部环评局局长Push Sorithy热诚地邀约。

EIA in China

- ▶ EIA law in China is mainly drawn from the Environmental Protection Law, the EIA Law, and a number of environmental laws and administrative regulations.
- ▶ Article 13 of the Environmental Protection Law provides the legal basis of EIA requirement that leads to the promulgation of the EIA Law in 2003
- ▶ The EIA Law imposes the EIA requirement on economic development plans and **construction projects**, establishes an assessment and mitigation system, requires a follow-up monitoring and evaluation on actual impacts of the plans and projects, and creates a legal liability regime in each EIA stage.

Public Participation in Chinese EIA

- ▶ Article 5 of the EIA Law provides that “The state shall encourage all relevant units, experts, and the public to participate in the EIA in appropriate ways.”
- ▶ China distinguishes two EIA regimes
 - ▶ EIA for construction projects (“Project EIA”)
 - ▶ Article 21 of the EIA Law
 - ▶ Article 16 and 17 of the Interim Measures
 - ▶ EIA for development plans (“Plan EIA”)
 - ▶ Article 7 of the EIA Law
 - ▶ Article 11 of the Provisions of Public Participation in EIA on the Draft of Special Plans

Procedural Steps

- ▶ The EIA information are disclosed, notices are posted in residential quarters, and the news is released in local newspapers and websites of involved parties.
- ▶ Information is collected through different means. Usually, it is done by a hired contractor. Sometimes, there are informal arrangement for discussions or door-to-door interviews. A simple questionnaire is made for the public to answer.
- ▶ Then, collected opinions are classified and submitted to the project proponents to be considered and written as a mandatory section contained in the EIR.

Comparison

Institution Nature in Cambodia	Cambodian Public Institution	Chinese Public Institution
Legislature	National Assembly & Senate	National People's Council
Executive: Central Government Level	Royal Government	State Council
Executive: Ministry Level	Ministry of Environment	Ministry of Environmental Protection
Executive: General Directorate Level	General Directorate of Environmental Protection	Department of EIA
Executive: Department Level	Department of EIA	1 general admin. and 5 division divisions
Technical Support	N/A	Appraisal Center for Environmental Engineering
Administrative Level	Municipal / Provincial Environment Office	Environmental Protection Bureau ("EPB")

Legal Framework for Public Participation

Nature of Law/Regulation in Cambodia	Cambodia	China
Main Environmental Law	Law on Environmental Protection and Natural Resource Management (1996)	Environmental Protection Law (???)
Specific EIA Law	N/A (drafting is in progress) Law on Protected Area (2008); Law on Forestry (2003)	EIA Law
Main Executive EIA Regulation	Sub-Decree on EIA Process (1999)	Among others: -Regulation on Hierarchical Examination and Approval of EIA Documents
Main Executive Ministry-Level EIA Regulations	Prakas on General Guideline for Preparing Initial and Full EIA (2009)	
Main Public Participation Related Binding Document	N/A	-Interim Measures for Public Participation in EIA -Specific ordinances of local governments
Public Participation Related Non-binding Document	EIA Guidebook (2012)	Not Found

Experiences from Case Studies

▶ **Case 1: New Beijing Airport**

- ▶ Identifying the “real” project affected parties
- ▶ Public participation requires time and resources
- ▶ Documents needing inputs are too technical to be simplified into tick-the-box surveys
- ▶ Information is not “fully” disclosed for the purposes of consultations
- ▶ Means for project affected parties to voice their concerns are not appropriate
- ▶ Comments received might not be incorporated nor addressed

▶ **Case 2: New Koh Kong Airport**

- ▶ Still in its inception stage. See photos earlier.

Concluding thoughts

- ▶ A robust EIA process where the public is meaningfully and effectively engaged remains a crucial step toward achieving the goals of meeting economic development and mitigating environmental impacts.
- ▶ This is largely feasible provided that the state, through its legal instruments, adopts a more open, representative and participatory process in its approval of large scale development projects, such as those that are being realized through the BRI.



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