

Institutional Aspects of Preparation and Review of SEA

by Elvis Au

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The topic of this session is on institutional aspects of preparation and review of SEA. Now, what I'm going to talk about today is to cover five key areas. I will talk about different schools of SEA in the world, and I will highlight the importance of institutional arrangements for proper preparation of SEA. I will mention the different components of the institutional arrangements, and I will also discuss the key success factors, the barriers, the difficulties, and I'll offer some practical tips for all of you, and I'll highlight and summarize some key learning points for you all.

Now, I think you may have already heard from Maria Partidario on this slide, so I'll just briefly recap what she said. Basically, she said that there are two schools of thought in the world: there's a school of thought primarily coming from the planning and policy perspective; there's also another school of thought coming from the bottom up, what we call the project impact assessment school.

Also in her presentation, she said that these two schools of thought have come up with three different approaches to SEA in the world: the first is the EIA-based model; the second one is what she called the integrated model, try to bring everything together; the third school of thought and approach is the decision-centered model, primarily relating to policymaking and planning to really determine what is needed and how to make decisions.

But no matter which model you use and which approach you adopt, there's still one basic common question, which is: What is an effective institution? Unless you have an effective institution, you can't achieve the purpose and objective of SEA.

Now, in fact, no single school of thought has dominated the world, and different EIA systems require different institutions. And successful SEA requires very effective institutions, no matter which model you pursue. But there's one obvious question: What is an effective institution? But, unfortunately, there's no single definition. It all depends.

Recently, the World Bank has published a World Development Report 2003, and from this report we get some insights about what an effective institution might be. In this report, they mention three key major determinants of an effective institution: an institution is considered effective if it can pick up signals, including information, voice, and feedback; it balances different interests, including transparency and different forums; it also can execute agreed-on actions that relate to

the commitment capability. So these are three major what you may call aspects promoted by the World Bank and which give some insights to us right now.

Furthermore, the European Environmental Agency has also looked into this problem of an effective assessment process. In one of the papers they published, which is called "Designing Effective Assessment," it basically highlights three key determinants of an effective assessment, namely, it must comprise, A) focus, what you assess; B) participation, who is to be involved; and, C) about science and governance. It basically relates to the relation between scientific experts and the policymakers, what role they play and how they interact. This is called the science governance. It's a term which is difficult to understand, but it's very important.

All these three key determinants require a proper institutional arrangement to ensure effectiveness. So if we combine the three determinants promoted by the World Bank for an effective institution and the three determinants promoted by the European Agency, you've got six aspects, basically, to provide you with a framework to look at an effective process by effective institutions. These six aspects are outlined in this slide, namely, the capability to pick up signals during and after the SEA process; the ability to focus on key issues; whether the system can allow for participation by key stakeholders; whether you have a suitable science and governance arrangement; whether the system can balance different interests in a transparent way; and whether you can execute agreed-on actions. These are six key aspects that provide you with a framework. This is the framework I'm going to use to talk about institutional arrangements in my talk right now.

In designing a suitable system, you ought to look into different factors as well. Every system is unique, specific. It's country-specific. You can't just copy, but you can learn from others. You can also look into different types of proposals subject to SEA. Different proposals may be quite different setting, different arrangement.

You also need to look into your own legislative framework, your own administrative framework, whether you have the law to require SEA or whether it is simply administrative. You also need to look into your own decision-making system within your government, your processes, and who are involved in making the decisions in your country or your organization.

There are also different types of values that may affect public participation and transparency, and each country is different in terms of values about participation. And, finally, of course, as a practitioner, you need to look into practical issues, how the particular systems work in your case.

Now, let me briefly explain how these six yardsticks are to be used and to be applied in your own case to design a suitable arrangement. Firstly, I'll talk about the pick-up signals.

I think you have to consider how to link your process to information sources and signals. There may be all kinds of information sources that feed into all these efforts. You also need to scan a lot of signals to see how all these signals are relevant to your policy proposal and your process. In the world, there are many different kinds of signals in terms of opportunity among the issues.

The second category of issue that you need to consider is what we call the focus. Now, what do we mean by focus? It's about, firstly, how you design and determine which proposal ought to go through SEA. First of all, not all proposals have to be subject to SEA. You have to identify which proposal is suitable for SEA and why.

Then, secondly, you have to look at the issues associated with this proposal and the signals involved and to focus on those key issues and key signals that might affect the proposal.

Then you have to look into your own decision-making process to really identify which junctures you need to focus on where there will be a need for input from SEA.

The third aspect of participation which is very crucial to the SEA process but which is very different from the EI process because SEA is about policy and proposal and plan, which is pretty high level sometimes. Sometimes it might be confidential, it might be under different agencies, different processes. So from the very beginning you have to determine and consider who should take part, why, and when. Secondly, you also need to consider process, the mechanism, and SEA aspect for them to take part. Each case might be different. You can't just use one single model to apply to different proposals, to design the participation process.

Fourthly, I think you have to look into the relationship between the experts, what we call the scientific experts, and the policymakers. Now, this is one of the very difficult areas because it relates to your credibility and the credibility of the science in the assessment process, and you have to ensure the scientific credibility in your process. And right from the very beginning, you have to consider which experts are to be involved, why, and when. You have to clearly define the roles of the experts, the roles of your own policymakers, and the roles of all the parties, and how all these different parties interact and relate to each other in the whole process.

Then we come down to the fifth category of issues. It's about balancing of the interests and transparency. Then you have to look at the information needs of the decisionmakers. You may have to ask them what do they need to make the decision. How could the EI process and the SEA process generate such information for their own use? You have to identify processes to explore and seek what we call the win-win-win solution. But you may wonder what win-win-win means. Why is it that you have three wins? Yes, there are three wins: the first win is for the society; the second win is for the economy; the last, but not the least, the third win must be for the environment, and it is the objective, in fact, of the SEA to explore win-win-win in order to have a mutually acceptable outcome.

Then you have to consider and to decide on the extent of transparency, depending on the confidentiality of your proposal and the extent of public expectation and the public values in terms of participation.

Finally, the sixth category of the issue is very important. It's about execution of agreed-on action. It's about how you actually bring all this commitment into action. Then you have to determine who to implement what after SEA. You have to identify processes and mechanisms to follow through all these mechanisms.

Now, I can use this diagram to illustrate the relationship between three categories of activities which might be going on in a concurrent manner, which might be iterative, it might be in a cyclical manner. It's about preparation of SEA. It's about review of SEA. It's about making decisions based on the information available initially and finally. These three are not separate steps. This is very iterative, one follows the other. But it's cyclical, iterative. It's not in a sequential manner. So it means that you have to identify information needed for the initial decisionmaking, and you have to identify what needs to be assessed further and reviewed further.

But behind these three categories of activities, there's a foundation which are the six aspects I mentioned. They're all listed here so I don't need to mention and repeat further.

Now, how are we going to prepare and review SEA? It's very complicated because each case is different, but to put it very simply, you can put down these activities against four key question: who to involve, what to assess or review and for what purposes, when, and how. And at different stages, you have to consider different questions.

Now, say, for instance, during the preparation of SEA, who is to prepare SEA are, of course, the proponents. But what to assess and for what purposes is a key question to be answered. It really depends on the types of SEA you're talking about. Then you have to consider when to start the preparation and when to fit into the decision-making process. And you have to design the SEA process to identify issues. You identify how to assess those issues.

Now, coming to the review of the SEA, then I think you have to identify whether you're talking about an internal review or other organization, what to review, for what purposes, when to review, when to provide the feedback to the proponents, and how to conduct the review. Now, I'm going to talk more in my later part of the presentation.

Now, let me talk about the preparation of SEA first. Again, I think you have to consider this from different perspectives. You have to consider this from the perspective of the proponents. You have to consider it from the perspective of the decisionmaker or the authority. Or you have to consider this from the third party, the stakeholders.

In the preparation of SEA, you can roughly divide it into three phases: the initial phase, preparation of the SEA process; the initial assessment phase, where you have to look into the issue initially; and the final assessment phases. And the proponents and the authority and other stakeholders will have to do different things during these processes.

Now, I may just highlight one or two key elements that are very important. I think right from the very beginning, the proponent really needs to look at their own budget and program to make sure that they have a suitable program and budget to allow for SEA. Of course, they might ask is there any value-added for the SEA process in terms of their own planning. But having a good program is the beginning, is the most important thing. Then they have to start the baseline study. They have to frame the option.

We got into the authorities; one of the key things they need to do at the very beginning is to really design a suitable SEA process. You can't have one single system process that can apply to

all situations. So you have to really think about how the process could be structured that can allow SEA to be done properly, meaningfully. Then you have to formulate some yardsticks and to initiate a review process.

Now, if you are the third party, then you really need to look into also alternatives and ideas you have. If you have any ideas, you better provide them to the proponents early. Then you can also be involved in the feedback process and the review.

This is a very general framework. I think moving from general to specific, let me quote one example that I have in terms of my experiences, which is about my involvement in the territorial development strategy in Hong Kong. It's a long and complicated story. If you are interested, you can go to our website. But primarily it's about the whole strategy in Hong Kong. There are actually four key groups of parties involved in the process. Immediate and central to the whole process, of course, is the policy and plan proponent, which is the Planning Department and other departments involved in the planning.

But in addition to them, there are the three key stakeholders involved. We from the EPD have been involved from the very beginning setting the terms of reference and steering the process. Then the Advisory Council on the Environment is also closely involved in the process. This council is basically a multi-stakeholder council involving all stakeholders. It's an independent body comprising representatives from all walks of life in Hong Kong, including green groups, industrial representatives, academics, et cetera. There's also the general public and the legislators who have been involved in this process.

This process has been going on for quite some time, for at least four to five years, from '92 to '96. It's quite a long, drawn-out process.

In a nutshell, I think this process actually allows different parties to be involved in looking at the options for the development of Hong Kong up to 2011. It has gone through three phases: preparation, initial assessment, and final assessment.

There were two key consultation processes going on. One was in 1993 to consult the public on the initial findings, the baseline study. The second one was in 1996 to consult people on the preferred options. It was on the second stage where the public had a lot of opportunity to comment on the options.

But I think up to now at this point, I think you might find it extremely difficult because it's such a complicated process, and you may ask who is going to review the SEA since it's so complicated, and how, right? This is the area that I'm going to talk about.

Now, around the world there are really different approaches and mechanisms to review SEA. They're not mutually exclusive, but I shall go into them one by one. Now, some countries have a mechanism to review the SEA by different authorities like in Hong Kong. In other countries, they might have some ad hoc peer group or panel approach, a group that is coming together to look at the report and offer experiences and opinions and expert judgment.

It might be a standing advisory committee to look at the SEA. This is an arrangement that we have in Hong Kong through the Advisory Council on Environment. In other countries, they might have a public forum, a public inquiry process, a public hearing. So these are largely four different types of arrangements in the world. But which one is suitable for you I can't tell because it depends on the types of SEA proposals that are under your system that you have to manage. It will also depend on the types of proposals that you are talking about, whether you talk about rational policy-related strategy, whether you talk about sector/programs, whether you talk about regional plans. And each one is different.

Okay. Let me briefly go into policy-related SEA because it's one of the key difficult areas that a lot of practitioners are facing right now. Now, examples of this policy-related SEA in the world include, for example, the famous Dutch E-test in the Netherlands, the policy appraisal in U.K., the Canadian Cabinet's policy assessment, and the Environmental Appraisal of Policy in HKSAR as well.

Now, these types of proposals are very unique in the sense that they involve cross-sectoral policy issues and domains. Sometimes it relates to sensitive policy issues, and sometimes it has certain confidentiality rules that govern the release of information.

Now, common to all these approaches is primarily a sort of desktop review by different agencies within the government, and the conclusion might be released to the public.

Now, if you go into a different type of SEA proposal like a sector program, then I think you are entering different kinds of areas because it's this type of program where there will be enormous opportunity for interaction. There are lots of examples around the world like the SEA of sectoral plans in Europe, USAID's programmatic SEA, and so forth. Now, these are governed by planning by the different policy bureaus, different ministries, and sometimes you may use the policy model, sometimes you may use the planning model. So around the world there are different approaches, including interagency review, public review, and in Netherlands, as some of you may know, they have an independence Dutch EI Commission, which is quite famous.

In fact, around the world you may say most of the experiences are in this category, what we call the regional plan oriented SEA, because in U.K., in Europe, and in Hong Kong as well, a lot of so-called SEA has been applied to regional plans because of maybe the well-developed planning process around the world. So you find a lot of examples around the world in U.K., in Europe, USA, and Hong Kong as well.

The characteristics of this type of proposal are that they are more open. There are more opportunities for public involvement. The process is more structured, so a lot of opportunity for interaction with the public. Then I think in terms of review, you know, you can name it, a lot of approaches are available: panel review, review by authorities, review by agencies, by advisory committees, open public review, et cetera. So all these are available for these kinds of proposals.

But I think in choosing among all these proposals and approaches, I believe that you may soon find out that there are a lot of difficulties and barriers. All these approaches and models do not come easily because they all have to overcome their own barriers. So I think it might be, I think,

beneficial for me to talk about the barriers that you may have to overcome in order to set up a suitable model and system.

Now, the first barrier I would like to talk about is what I experienced, what I call the psychological fears. Now, I have gone through these fears myself, and I think a lot of people who have gone through EIA have to overcome these fears, psychological fears, because in terms of the policy and plan, we are talking about a lot of unknowns, a lot of policy areas, policy issues, unknown plans, unknown proposals, assumptions, a lot of barriers behind the assumptions. And there could be all kind of fears about what happens if I open all this up, what happens if I consult the public about my plan, my option. What happens if they don't like it? What happens if they have adverse comments?

Now, I think these are the psychological fears everyone has to overcome, but I think one thing is for sure. I think they are really very beneficial in terms of engaging the public in early dialogue, especially on alternatives. So if you don't believe it, you can try it, you can experience the benefit of doing so. So you have to overcome these fears in order to have a proper process that can allow people to take part.

Then the second barrier, as I call it, is what we call the institutional barrier. It's quite common. You can find it around the world. You can find it in your place. Basically all the policy and planning processes are sometimes in their own policy domain, one by one, but within each compartment it's very nice and tidy, but there may not be relationship across the domain. The domain and the compartment are not linked together. Sometimes they don't talk to each other. It's quite common. So there's a need to really overcome these barriers across the domain, across the compartment, across the compartmentalization.

Now, overcoming these barriers are not enough because you do have some practical issues to overcome and to deal with. There are practical difficulties, unlike project EIA which is very well defined and established. Project EIA is an open book--you can find all the solutions to all your questions. But for SEA, you can find many solutions to your own questions because many problems are very unique to your own case.

So there are two key categories of difficulties you will encounter, no doubt for sure. One is the procedural difficulty. There are enormous challenges in designing the right timing and approaches for preparation and review of SEA within your own setting, within your own practical constraints, and how to balance all these constraints, how to have a working system, are all the procedural challenges you have to face. You can have test cases, but you still have to tailor-make your own process to your own case.

Now, apart from this procedural issue, there are real analytical issues that you will encounter because we talk about highly conceptual, highly abstract plans and proposals. And you can't simply have any formula to copy, so to speak. So you have to deal with a lot of future projections, future predictions of something really unknown. And a lot of assumptions are really fluid and could be changed any day, could be different. So you have to assess different scenarios in the future, talk about at least 10 years, 20 years, or 30 years. So a lot of analytical models right now you have are not suitable, could not be used. You may have to use some sort of more

expert judgment model and some of the simplified analytical models to suit your own needs. So these are two key categories of difficulties you have to learn to face.

But I think I can tell you with my experiences that there could be some success stories around the world and also in your case. And in order to achieve success, there are certain key success factors that I can observe based on overseas experiences and based on experience in Hong Kong.

The first success factor that I can tell you is that there must be very explicit systematic linkages between the preparation and review process with your own policy and plan making process. You have to link the two together; otherwise, they will go in opposite directions--one goes in this direction, the other goes in that direction. It's not going to be good for you. So there must be very clear linkages.

The second thing is very important for any success story that I find. It's about professionalism, it's about objectivity in the preparation and review of the SEA. No matter how many different opinions there might be in the public domain, if it's done professionally and objectively, then there may be a basis to develop consensus among different parties, and you can gain their trust and support.

The third key success factor that I can sum up is what I call the proper scoping of whatever you do, be they proposal issues, review criteria, mitigation measures. Unlike for the EIA, you can't predict all the issues. You don't have the money and time to do all the assessment, I can tell you. You don't have money and time to do all the quantification for all the issues. You have to scope. You have to focus. You have to identify your right focus.

And, fourthly, in order to be successful, I think the system needs to be accountable and transparent as far as possible, although it might not be possible every time, but you have to try to achieve that accountability and transparency.

I'm sure you will be faced with questions from your own employers and your own ministries about why they need to do SEA, for what purposes, why do they need to spend money and time. So in order to make it a success, I think you have to maximize the value-added to the decision-making process. SEA must not be, must never be assessment for assessment purpose. We are not talking about an academic research or a literature review. We are talking about something to be very practical, useful to your own bosses and employers, to your own decisionmakers and the public. So you have to focus and identify what the value-added is. If you can't answer this question, I think forget doing SEA. It might be a waste of time.

Then this other factor is the need to assess your assumption very critically behind the proposal. Unlike project EIA, we are not assessing the issue per se. We are assessing assumptions behind the policy proposal and the plan proposal. These are the assumptions that will be subject to change. These are the assumptions that will be hotly debate in the public. So the earlier you look into that, the better.

The next one is about the multisectoral participation process. You have to allow different parties to be involved throughout the process. I've said it many times already. And you will come to the

procedural requirements, and you have to deal with these procedural requirements. You have to provide guidelines to many people. But there's a definite balance between providing guidelines, on the one hand, and also developing people to do the assessment, developing people to review the assessment, developing the public also to be able to be involved in assessment. It's not just about guidelines or procedures. It's also about people, people, and people.

You have to also talk about communication, communication, and communication. That's one of the key success factors.

Now, I think talking about all these theoretical issues may not help you too much, so maybe I can share with you some of the practical tips I gained in my past ten years of experiences that might really work in your case and that worked in my case.

The first tip I can tell you is about learning and learning to overcome fears. For SEA, you have to really learn what you have done in the past about the EI process and why it's not working when it comes to policies and plans. And you have to learn your learning process, and you have to apply these lessons to your own cases.

Then the second one is to really achieve transparency to what I call the maximum practical extent. In cases where it's not possible, you should still try to think how you can make a finding in the end. For cases where it's possible, you should engage the public and be transparent on day one, if possible. And I think you have to have consistent, credible objectives, accountable yardsticks and criteria for assessment for all.

I think involvement of key stakeholders is really the key to the whole process, and it must be done at the earliest possible stage, not at the end. Now, it's especially important for policy and plan proposals because it could be very controversial. You may receive lots of objection in the end. So the earlier you can involve the stakeholders, the better. And you must use the process to develop win-win-win solutions, not just win-lose solutions. Then I think you have to fit the assessment results in stages, not in the end but in stages, to the decision-making process. Sometimes it's too late to fit the results in the end to the decisionmakers, only to receive the response that the decision has been made, it's too late, then better do it next time earlier.

The last, but not the least, I think we all have to be pragmatic. Sometimes we have to accept that we have to do it by trial and error, learning by doing. You have to have clear focus, and you have to do it with purpose.

So in the end, after you hear from me talking about all this in the past 20 minutes or so, what have you learned? I hope you still remember that I think there are key learning points, I think we do need a proper system to realize the benefit and purpose of SEA. The institutional arrangement really depends on your own specific context, and it also depends on the types of proposals you are subjecting to SEA. It requires very proper screening and scoping. You have to set the right terms of reference at the very beginning, and scoping is absolutely crucial. And the SEA process will be more effective if it is scientifically credible, accountable, transparent, and participatory. And proper systems and procedures, as well as human capacity, are equally important.

Last, but not the least, you do need a health check of your own system, and you have to answer the question: Is your system healthy? And coming back to the six yardsticks I mentioned, pick-up signals, focus, participation, science governance, balancing interests and transparency, execution of agreed-on action, you have to really answer these six questions yourself and try to see how well you are doing.

This comes to the end of my presentation. I would like to thank you for your time and your attention. I hope you learned something from my presentation. So I'll leave with you some questions for thought and discussions.

First is you can discuss how could the quality of decisionmaking be improved through proper preparation and review of SEA. It's a very important question.

The second question that's worthwhile to discuss is what are the key factors that I need to consider in order to develop and prepare an SEA system that can help contribute to successful development.