



**PROTEUS *GLOBAL BIODIVERSITY AGENDA* WEBINAR SERIES  
GLOBAL REVIEW OF EIA / SEA LEGISLATION**

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# Welcome

## Global Biodiversity Agenda webinar

- A series of webinars sharing information and insights into the latest trends and developments in biodiversity and ecosystem services policy, initiatives, data and tools.

## Context

- Developed as part of the Proteus Partnership (member extractives companies and UNEP-WCMC)

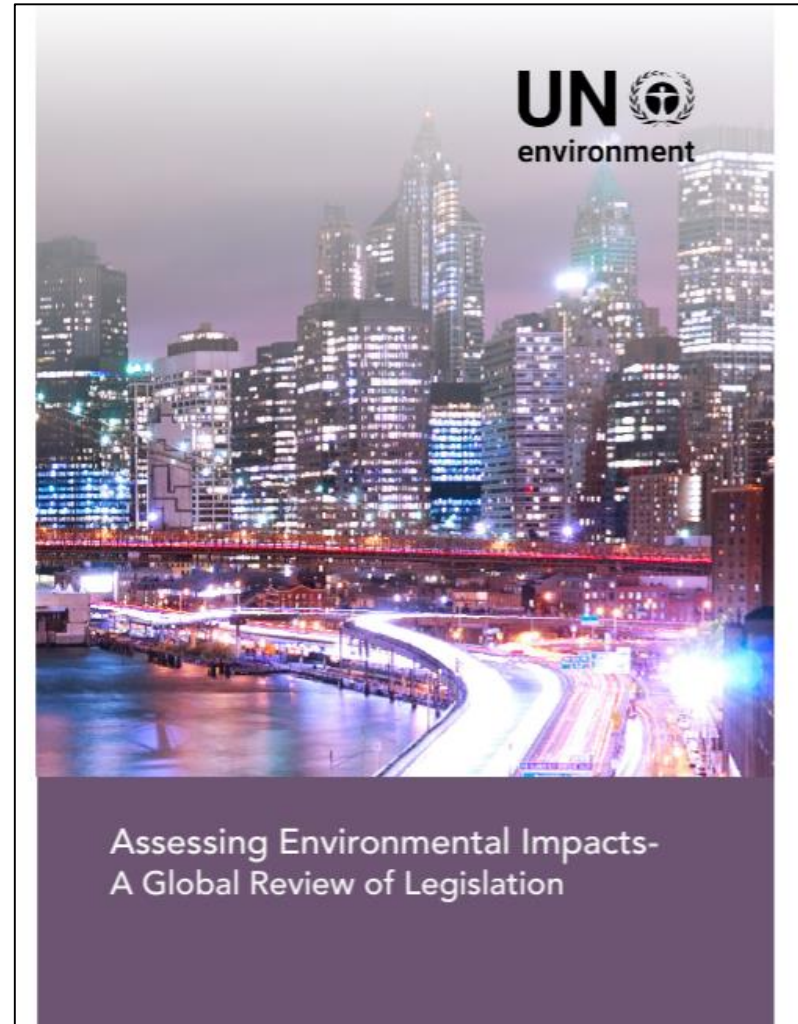
## Logistics

- **Frequency:** Quarterly
- **Scheduling:** AM & PM sessions
- **Rules:** Chatham House rule for discussion, but presentation is recorded
- **Topics:** Your suggestions are welcome

## New 2018 UN Environment publication

- Overview of the current status of national legislation and institutional arrangements of relevance to EIAs and SEAs
- Supporting legal practitioners and policy makers

**Online: [wcmc.io/ea\\_legislation](https://wcmc.io/ea_legislation)**



## **Focal areas**

**Why?**

**Why has the report been developed now and how?**

**Emerging issues**

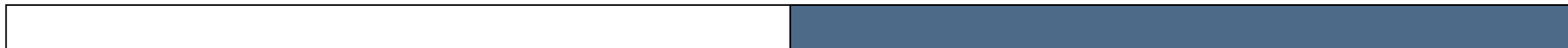
**What are global trends and emerging issues based on country case studies?**

**Global influence**

**What is the influence of the global biodiversity agenda?**

**Implications for extractives**

**What are the implications for extractives companies?**



# A quick summary

## Environmental Impact Assessment (EIA)

*“The formal structure for carrying out the assessment of the environmental implications of projects and its integration with the project cycle” (Ebisemiju, 1993)*

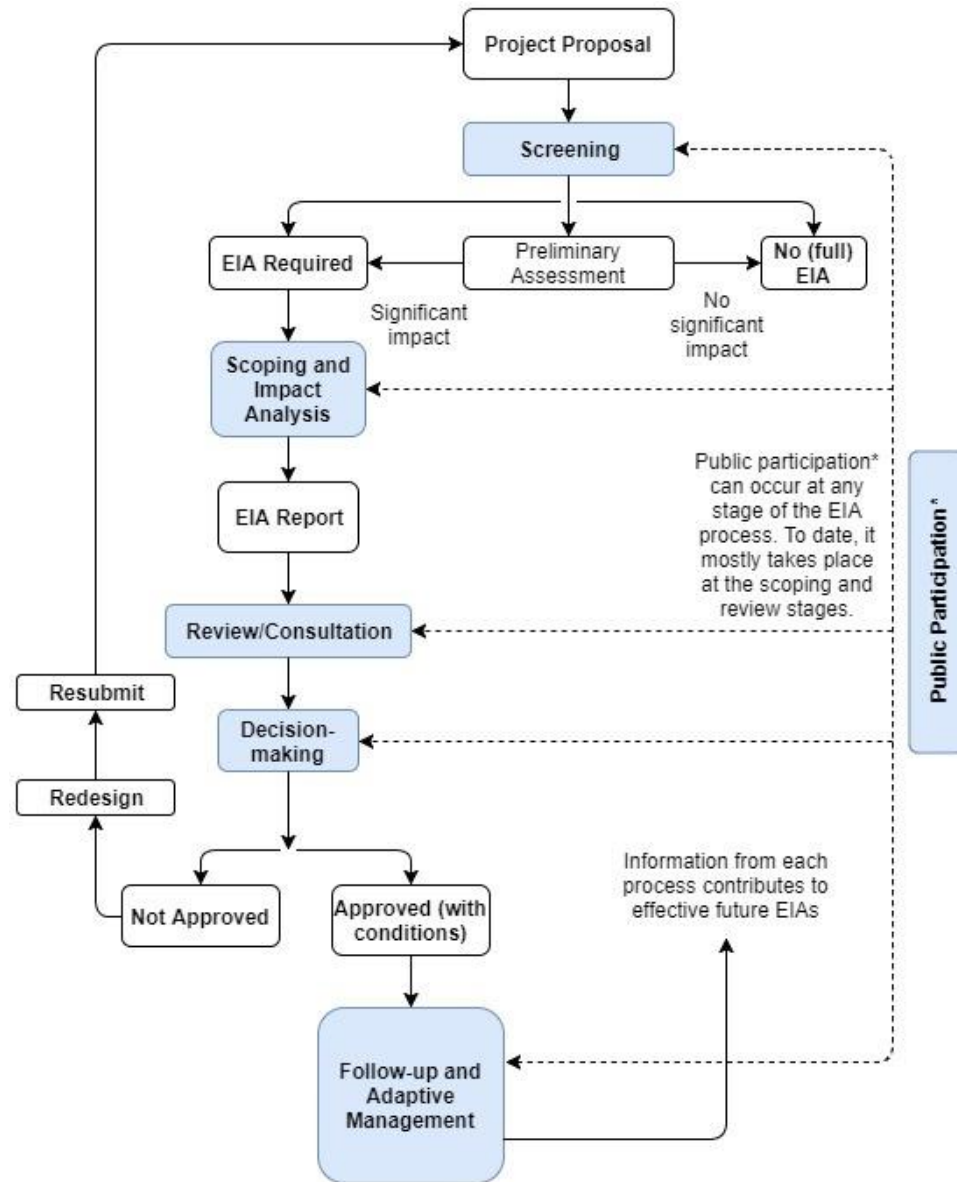
## Strategic Environmental Assessment (SEA)

*“The proactive assessment of alternatives to proposed or existing PPPs in the context of a broader visions, set of goals, or objectives” (Alshuwaikhat, 2015)*

- Common distinction is the level of decision making: in the case of EIA physical developments and in the case of SEAs the adoption of a plan, programme or policy (PPP) by a government
- Link between EIA (downstream) and SEA (upstream)
- Both aim at avoiding significant negative impacts on the environment, as well as enhancement of positive impacts

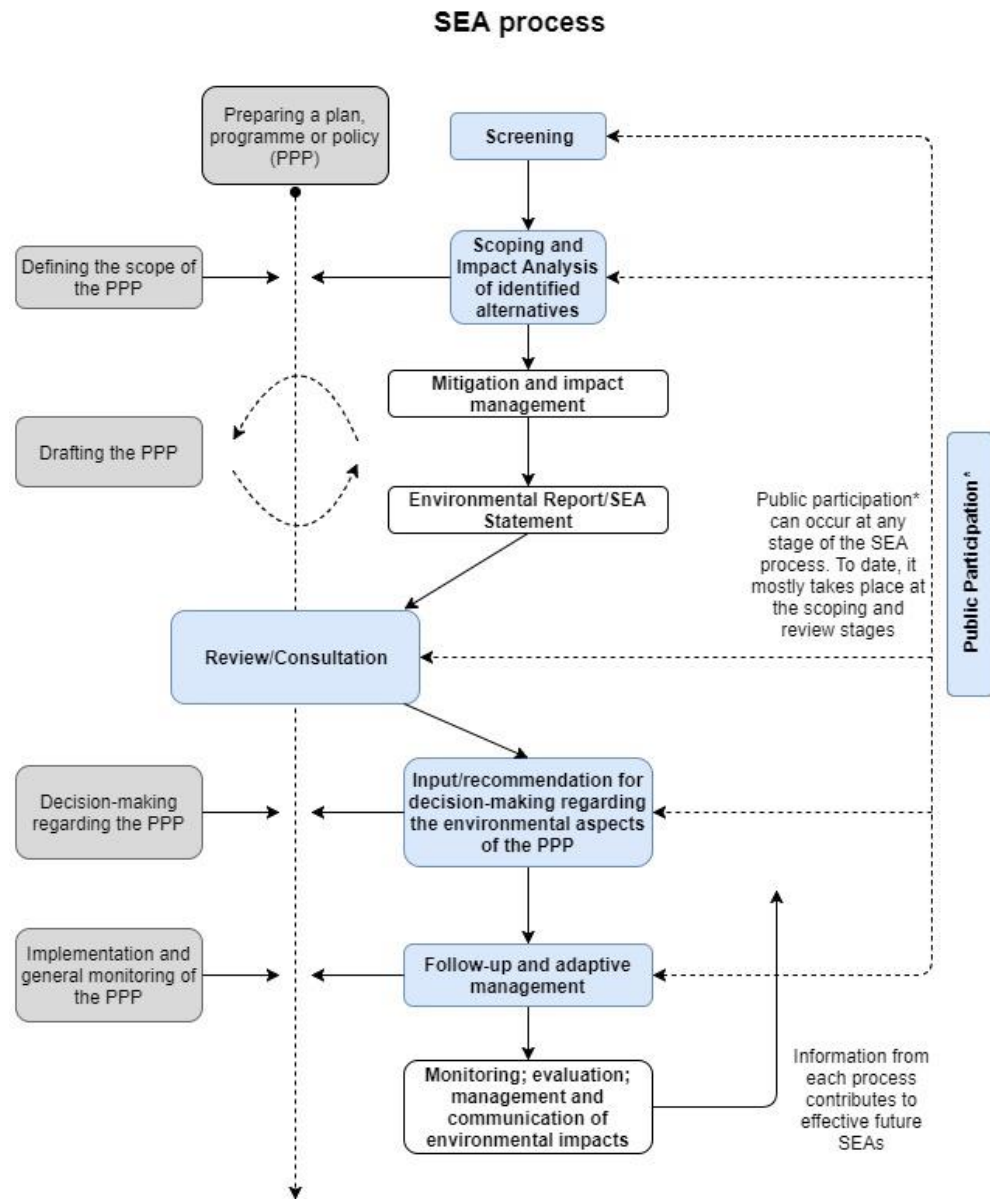
# EIA process

(Adapted from UNEP. Environmental Impact Assessment Training Manual 2002)



# SEA process

(Adapted from UNECE. Protocol on Strategic Environmental Assessments: Facts and Figures, 2002)





**WHY HAS THE REPORT  
BEEN DEVELOPED NOW  
AND HOW?**

# Why has the report been developed?

The UN Environment mandate to strengthen the development and implementation of national environmental law

Addressing the implementation gap

Addressing the challenge in accessing information

Promoting the importance of EIAs and SEAs for sustainable development



# How was the report developed?

## Literature review

- Conducted a comprehensive literature review, including academic articles, grey literature and guidance documents by non-governmental organizations and intergovernmental organizations

## Stakeholder engagement

- Government representatives
- Researchers and academics
- Representatives of regional and global organisations
- Legal practitioners

## Criteria for inclusion of legal measures in the report

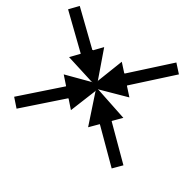
- Inter-region balance of countries
- Intra-region balance of countries
- Balance of common and unique legal approaches
- Recent reform of EIA / SEA legal framework
- Availability of in-country reviewers

A vibrant, high-angle photograph of terraced rice fields in a tropical setting. The terraces are filled with young green rice seedlings, creating a rhythmic pattern of green and brown. In the foreground, several tall coconut palm trees with large fronds are visible, along with other tropical plants like banana trees. The background shows more terraces extending up a hillside under bright, natural light.

**WHAT ARE GLOBAL  
TRENDS AND EMERGING  
ISSUES BASED ON  
COUNTRY CASE  
STUDIES?**

# General trends in environmental assessment legislation

- Strengthening of public participation requirements, but mostly limited to the scoping and review stage
- Increased attention on assessment of cumulative impacts and alternatives
- Developments towards integrating substantive guidance for EIA and SEA legislation  
E.g. steps of the Mitigation Hierarchy
- Increased focus on follow-up and adaptive management
- Key implementation challenge: Lack of available, accessible and suitable data



# EIA legislation - Emerging issues and trends

- Broad coverage, but implementation / enforcement gap
- New institutional arrangements to strengthen the EIA system
- Measures to strengthen the screening stage and public participation
- Legal Provisions on access to EIA relevant docs (gap: follow-up)
- Right to appeal for environmental NGOs
- Strengthening of the penalty regime



# SEA legislation - Emerging issues and trends

- Trend towards broader application of SEAs is continuing globally
- Key tool to promote environmental mainstreaming in sectoral and cross-sectoral policies
- Trend towards adoption of complementary non-binding procedural guidance
- Lack of guidance regarding public participation
- Tiering of EIA and SEA



A lush, dense tropical forest scene. The foreground and midground are filled with various types of green plants, including large, feathery palm fronds and broad, heart-shaped leaves. Several thick, brown tree trunks are visible, some with moss or lichen growing on them. The background is a thick canopy of green foliage, with sunlight filtering through in some places, creating a dappled light effect. The overall atmosphere is vibrant and natural.

**WHAT IS THE INFLUENCE  
OF THE GLOBAL  
BIODIVERSITY AGENDA**

# Past drivers of change

- UN Conferences
- Customary law
- Biodiversity-related conventions and others, including regional conventions
- Decisions of governing bodies
- Agreements outside the environment sector
- The adoption of standards in multilateral development banks and financial institutions
  - World Bank
  - International Finance Corporation (IFC)





# Other relevant global and regional developments

- Latin American and Caribbean countries declaration on Principle 10 (LAC-P10)
- Development of the exploitation code for seabed mining under the auspices of the International Seabed Authority
- Development of a legal instrument to protect biodiversity in the high seas
- Campaign for a global pact to protect the human right to a clean, healthy environment
- The development of the CBD post-2020 agenda for biodiversity



# Further information

## NCEA

[www.eia.nl](http://www.eia.nl)

- The Netherlands Commission for Environmental Assessment
- An independent body that provides advisory services and capacity development on environmental assessment

## ECOLEX

[www.ecolex.org](http://www.ecolex.org)

- Information service on environmental law
- Operated jointly by FAO, IUCN, and UN Environment

## BES Legislative Scan

[www.britishecologicalsociety.org/policy/reports-publications/legislative-scans/](http://www.britishecologicalsociety.org/policy/reports-publications/legislative-scans/)

- Yearly Horizon Scans of upcoming legislative and policy developments
- Global and regional focuses

## CBD document

<https://www.cbd.int/doc/c/f02a/9d5f/7a27e1798492f4738014ba62/sbstta-21-inf-13-en.pdf>

- Title: “Global state of the application of biodiversity-inclusive impact assessments”
- Document presented at the Subsidiary Body on Scientific, Technical and Technological Advice’s 21<sup>st</sup> meeting (SBSTTA-21) in November 2017

A fisherman wearing a white jacket, orange pants, and a straw hat with red and green patterns is sitting in a traditional wooden boat. He is holding a long wooden pole. The boat is equipped with a large, circular fishing net. The water is a deep blue, and the scene is reflected in the calm surface. A woven basket is visible on the boat's deck.

**WHAT ARE THE  
IMPLICATIONS FOR  
EXTRACTIVES  
COMPANIES?**

# Implications

## Short term

In order to pre-empt changes, businesses should follow developments at the national and global level, relating to:

- Environmental Impact Assessments
- Biodiversity offsetting

Complexity of approaches will be a challenge for transnational companies

## Long term

Wider implementation of SEAs is expected to provide a more robust framework for companies to operate in

This will allow better consideration of cumulative impacts

Guidance for businesses will continue to be important



## DISCUSSION

# Discussion

## What is your experience of EIA / SEA procedures?

- E.g. reform of legislation in EIAs
- E.g. participation in SEAs

## What are the main challenges you are facing with regard to implementation of EIAs in compliance with national legislation?

## What do you see as the major future implications of broader use of SEA as a planning tool?



**UN Environment  
World Conservation Monitoring Centre**

[www.unep-wcmc.org](http://www.unep-wcmc.org)  
[@unepwcmc](https://twitter.com/unepwcmc)

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