

MAINSTREAMING BIODIVERSITY CONSIDERATION INTO VIET NAM ENVIRONMENT COUNTRY SAFEGUARD

Pham Phuc

Introduction

The Convention on Biological Diversity founded in 1992 is the joint agreement of the nations in the world in terms of biodiversity conservation, sustainable use of natural resources and equitable sharing of benefits derived from these resources. Vietnam has been a member of the Convention on Biological Diversity since November 17, 1994. In recent years, the conservation and sustainable use of biological resources of Vietnam have achieved remarkable results. However, the biodiversity resources of Vietnam remain seriously threatened. One of the principal reasons for the ongoing loss of biodiversity has been the loss of habitats due to changes of land use and large development projects, without the implementation of adequate safeguard measures to protect and manage the biodiversity resources. In order to support mainstreaming biodiversity considerations in policy making, the Asian Development Bank (ADB) supported the Ministry of Natural Resources and Environment (MONRE) of Viet Nam to carry out project TA 7566-REG (<http://www.adb.org/sites/default/files/project-document/81139/44140-012-tasp-06.pdf>), Strengthening and Use of Country Safeguards Systems - Mainstreaming Biodiversity Considerations into Country Environmental Safeguard System in Viet Nam”, which was implemented from August 2014 to October 2015.

Mainstreaming Biodiversity into Environmental Laws & Regulations

To make recommendations on the mainstreaming biodiversity considerations in the new regulations on strategic environmental assessment (SEA), environmental impact assessment (EIA), the project has reviewed the relevant provisions of the law on Environmental Protection 2014, Biodiversity, other related legal documents and drafts of decree and circular on SEA/EIA (Dcree No 18/2015/ND-CP, Circular No 27/2015/TT-BTNMT) to identify requirements and related issues to biodiversity impact assessment that should be included in these new documents. The international regulations on environmental impact assessment, mainstreaming biodiversity in strategic environmental assessment, environmental impact assessment also have been reviewed to identify applied orientation to Vietnam. The consultations with related stakeholders on proposals to mainstream biodiversity considerations in the revised decree and circular on SEA/EIA have been conducted through direct discussion and meetings.

Biodiversity Impact Assessment Guidelines.

In Vietnam all biodiversity relevant Laws, such as Law on Environmental Protection (Viet Nam National Assembly, Law No. 55/2014/QH 2013), Law of Biodiversity (Viet Nam National Assembly, Law No. 20/2008/QH12), Law on Forest Protection and Development (Viet Nam National Assembly Law No: 29/2004/QH11), and Law of Fisheries (Viet Nam National Assembly, Law No. 17/2003/QH11, have included the provision that any project which has the potential to affect biodiversity, must implement an EIA. However in recent years, the EIA reports evaluated and approved have unsatisfactory and very sketchy biodiversity impact assessments (BIA). They do not provide enough baseline information on biodiversity in order to assess the impacts and do not provide enough guidance on how to manage and mitigate the impacts on biodiversity. It is very difficult to evaluate, approve the biodiversity content of EIAs of such development projects. Therefore, the Technical Guidelines on BIA integrated into EIA processes have been designed to improve the consideration of biodiversity in the EIA report, combining elements of current best practice for ecological impact assessment to evaluate the issues relating to biodiversity in the current EIA process in Vietnam.

The steps required to evaluate effects on biodiversity are basically those of traditional impact assessment applied with a landscape perspective and specific biodiversity endpoints. The Guidelines (VEA- MONRE, 2015), propose a systematic and practical approach to the treatment of biodiversity within each step of the recognised EIA process, as shown in Figure 1 below.

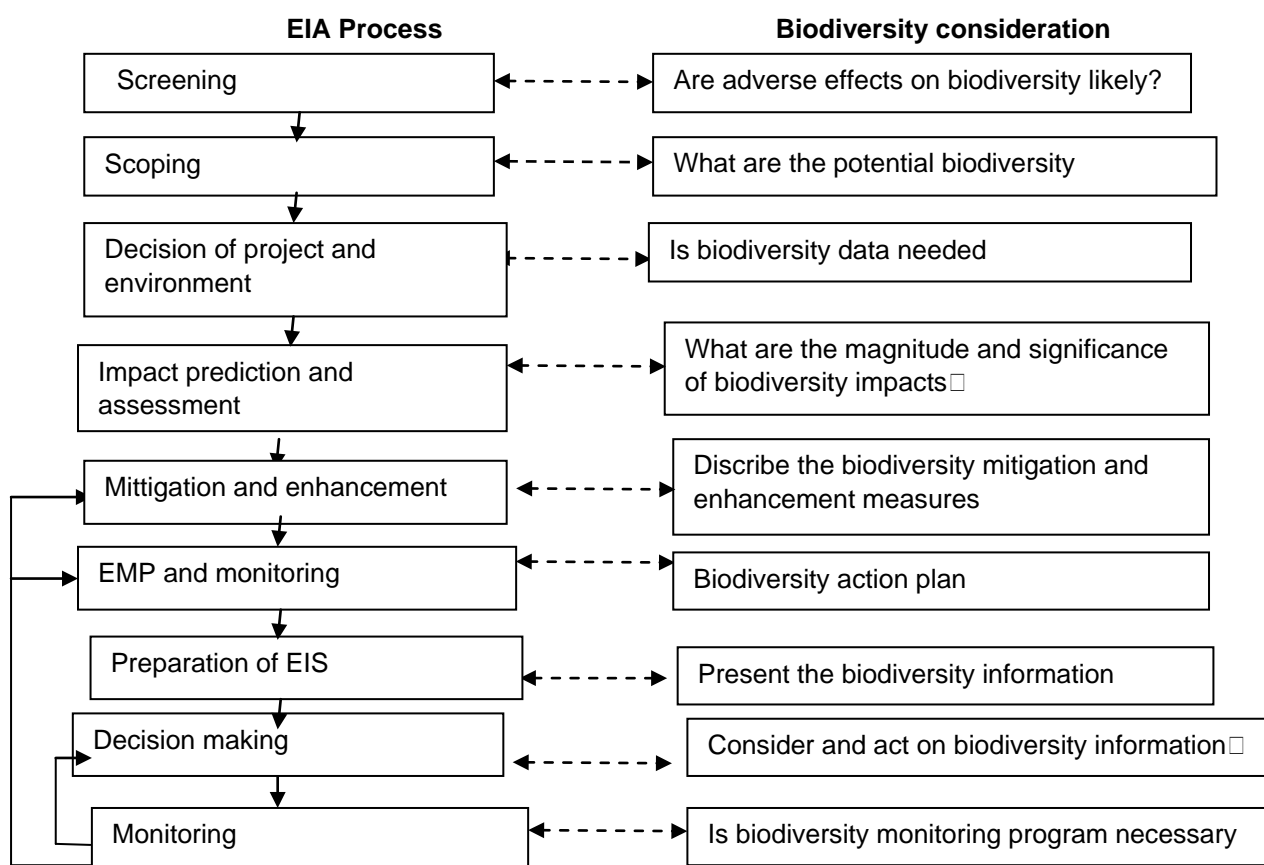


Figure 1: Biodiversity considerations to be included in the EIA process

Using this approach, the Technical Guidelines expect to support and improve the implementation of the regulations of biodiversity described in the Circular 27/2015/TT-BTNMT as shown in Table 1 below.

Table 1: Consideration of biodiversity in the Circular supported by the Technical Guidelines

EIA process	Considerations of biodiversity	Relevant regulations of Annex 2.3, Circular 27/2015/TT-BTNMT	Implementing subjects
Description of project	<i>Screening:</i> Any negative impacts caused from the project? Any potential effects on biodiversity?	Item 1.4. Key activities of the project and environmental issues related (presented in the summary table) Item 1.5.2. Spatial and time scale of activities of projects likely to cause environmental impacts	Project proponent and consultancy organisation hired
Environmental baseline	What biodiversity information needed?	Item 2.1.5. Current status of biodiversity	- as above -
Forecast and assess potential impacts caused by project	Forecast and assess magnitude and significance of effects on biodiversity	Item 3.1. Forecast and assess potential impacts	- as above -
Prevent and mitigate negative impacts	Propose prevention and mitigation measures on biodiversity, including action, plan on	Chapter 4. Propose prevention and mitigation measures for negative impacts Chapter 5. Management and	- as above -

	biodiversity conservation □	monitoring program	
Public consultation	Indigenous knowledge on the status and trends of biodiversity	Chapter 6. Public consultation	- as above -
Conclusions and recommendations	Conclusions and recommendations on biodiversity considerations	Conclusions and recommendations	- as above -
Decision making	Decision making		MONRE and DONRE
Monitor and control implementation process	Monitoring		MONRE and DONRE

Biodiversity Offsets Road Map

The concept of Biodiversity Offsetting is a mechanism for compensating for the predicted biodiversity losses resulting from a development project. This is a very new concept in Vietnam. One of the main tasks of the project TA 7566-REG has been to develop a roadmap for implementing biodiversity offsets for Vietnam.

The Vision for the Road Map (VEA- MONRE, 2015) is that a biodiversity offset system will be established and legally recognised in Vietnam by 2025 and fully operational by 2030. The Goals of the Road Map include:

1. An enhanced understanding of the concepts and current good practice around biodiversity offsetting amongst policy makers, planners, developers and decision-makers
2. The use of biodiversity offsetting as a policy and consenting tool to be endorsed when the Biodiversity Law (2008) is revised and under the new EIA laws and regulations
3. Development of a practical system for biodiversity offsetting in Vietnam, with proven methods and financing mechanisms, trialed and piloted. □
4. Building capacity of relevant agencies, developers and biodiversity conservation organisations to implement the offset system.

The Road Map's principal recommendation is that the MONRE pursue a policy to develop a suitable biodiversity offset system for application in Vietnam. In order to do this it is recommended (i) A Task Force within MONRE be set up to carry out the necessary studies to develop the biodiversity offset system and (ii) A project be developed for funding from ADB or another donor which would lead to the recommendations for the system to be piloted. □

The following technical recommendations result from the roadmap analysis conducted by the project

1. Adopt a policy for No Net Loss (NNL) of biodiversity,
2. Adopt Like-for-like or Better Metrics.
3. Build Capacity Within MoNRE and with Service Providers.
4. Create an effective institutional framework
5. Develop the systems necessary to build a program in the medium and long-term to achieve the objectives of the compensation plan and biodiversity offset.

BIA Training Programme.

From the beginning of the project, it was appreciated that the capacity to implement effective Biodiversity Impact Assessment in Vietnam is generally low. BIA was seen as too complicated to do effectively, and the understanding of DONRE staff was not adequate to be able to ensure compliance with the regulations and review the biodiversity components of EIAs. Key stakeholders for training in

the BIA process were therefore identified including the EIA departments at national and provincial levels (DONREs), environment departments in ministries with large development projects, research institutes, and agencies with specialist biodiversity expertise and agencies and consultants commissioned to carry out the BIA aspects of EIAs. The following training activities for biodiversity impact assessment, have been implemented (i) Research, survey and assess the training needs and the current capacity of the above stakeholders to carry out, review, appraise and approve biodiversity impact assessments; (ii) Preparation of report on the Training Needs Assessment for Biodiversity Impact Assessment; (iii) Based on the capacity needs assessment on biodiversity and BIA processes a program to strengthen the capacity of BIA to officials and relevant personnel was developed. The training programme was based upon the BIA Guidelines drafted under this project; and (iv) A number of two-and one-day training courses on biodiversity impact assessment in the framework of the environmental impact assessment were organised in a number of provinces and cities to strengthen the capacity of staff from central and local agencies and EIA practitioners.

Participants have enhanced their capacity in terms of BIA, and being more familiar with the Technical Guidelines, they can apply guidelines to prepare BIA and approve BIA contents in the EIA report.. The training courses were evaluated through an evaluation form completed by the trainees. Participants highly appreciated training contents and methodologies, knowledge and skills of the trainers, and organization of BCA with the support of the ADB. □

Recommendation.

Based on the process and development of products for this project to mainstream biodiversity considerations into Vietnamese environmental safeguard systems, a number of recommendations are proposed for the attention of MONRE in order to further strengthen the protection of biodiversity. □

(i) Additional measures need to be included to further strengthen biodiversity considerations in future revisions of the decree and circular on SEA and EIA to guide the Law on Environmental Protection 2014. When these legal instruments are being revised, this will require further research and recommendations based on the experience of implementing biodiversity impact assessment as an important part of EIAs. It is suggested that as a principle, biodiversity impacts should be given a similar level of priority in impact assessment as the impacts on water, land and air quality and that the level of detail in future decrees and circulars should reflect this. □

(ii) Over the next five years, MONRE should encourage the use of the BIA Guidelines in a series of important development projects for both public and private sector. The implementation of these BIAs should be closely watched and appraised, and appropriate lessons learnt. In order to facilitate more effective BIA process, additional biodiversity and habitat data especially identifying critical habitats and ecosystems in Vietnam, and criteria for the degree of biodiversity as standards and suggested indicator species to compare when conducting BIA. Companion technical guidelines on biodiversity monitoring, public consultation on biodiversity in EIA and biodiversity mitigation and management measures should be prepared to strengthen the advice provided. MONRE should monitor the practice of Biodiversity Impact Assessment in EIAs, with particular attention to the quality and effectiveness of BIA reports, the use of appropriate methods of assessment and management of impacts.

(iii) MONRE should work with development partners (including ADB, World Bank Group, and JICA) and the private sector to facilitate the trailing (??) of offset methods and mechanisms and piloting of biodiversity offset schemes for development projects that are likely to have adverse impacts on natural and critical habitats with high biodiversity. Costs of implementing Biodiversity Offset schemes for such projects should be built into the development and operating costs. During development of the Biodiversity offsetting mechanisms, MONRE should draw upon the experiences and lessons learnt gained through the study tour to Australia, and the various schemes being trialed in Vietnam and other neighbouring countries, and including similar schemes such as Payment for Forest Ecosystem Services. Based on the experiences of Biodiversity Road Map implementation, MONRE should amend and supplement the Law on Biodiversity and related legal documents to include biodiversity offset as a legal basis for the implementation of biodiversity offset schemes in Vietnam. □

(iv) Recognising that the capacity and confidence to be able to carry out and review and appraise BIA of development projects is weak within national and provincial agencies, MONRE should continue to organize training courses on BIA for involved officials and experts. The training course agenda and content developed during this project can provide the basis for these training, adjusted

where appropriate. MONRE also should develop and approve the program of improving awareness of biodiversity in Vietnam for the period 2016-2020 outlined in the Report on the Training Needs Assessment for Biodiversity Impact Assessment prepared by this project. □

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