### Environmental and Social Impact Assessment in Developing Countries - Protecting Communities, the Environment AND Clients’ Interests

#### Introduction

Social and environmental (S&E) issues associated with infrastructure developments represent visible, tangible and newsworthy reputational risk to clients and financial institutions (FIs) funding projects. International best practice environmental and social management systems have understandably become a pre-requisite for project financing, wherever a project’s location.

S&E issues on UK projects are managed through a stable planning and regulatory framework, underpinned by a well-established and highly skilled environmental industry. Large projects require an Environmental (and Social) Impact Assessment (ESIA) to best practice standards, approved by a well-funded, technically proficient regulator. By contrast, planning and environmental legislation in developing countries is often in its infancy. Poorly resourced regulators frequently lack technical capacity to enforce mandates and consequently S&E management practice remains in the early stages of development.

The stable UK environment provides confidence to investors that S&E risk will be adequately addressed, removing a key barrier to finance. As developing countries cannot yet provide this assurance, FIs have developed various standards or guidelines to manage S&E risk (collectively referred to here as international standards), such as the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability (the IFC standards). FIs’ without in house standards commonly sign up to the Equator Principles (EPs), which reference the IFC Standards on S&E issues.

This article discusses some of the challenges of developing country ESIA and application of international standards. We present an approach that focusses on key project risks, which protects communities and the environment whilst delivering the best outcomes for clients.

#### Challenges

- **Tight schedules:** Risky early stage development is often funded by sponsor’s equity or expensive finance. Client therefore needs project finance ASAP.
  - International standards are not a legal requirement but become de facto conditions due to financing pressure. However, offers clients the opportunity to apply a consistent approach wherever their projects are located.
  - Different FIs may have different standards (not all revert to EPs or IFC standards).
  - Standards are open to interpretation by FI organisations’ S&E experts. Different experts’ individual concerns/preference may lead to a potential risk of onerous requirements if not managed correctly.
  - Internal finance may still have strict requirements or revert to IFC standards.

- **Lender or internal (balance sheet) finance considerations:**
  - Legal requirements may be prescriptive, but regulator can often be process-focussed and lack technical or resource capacity.
  - Risk of onerous scope requirements due to poor technical knowledge – need to tread carefully.
  - Lack of capacity risks delays in approvals beyond statutory determination.

- **Risk of two tier study:** avoid temptation to do a ‘local’ study to get things moving. There is a risk of delays with design/cost implications when ‘upgrading’ to international standards.
Local consultants: inclusion of local consultants within the ESIA team is generally required to promote capacity building. Managing inexperienced consultants can be challenging, but local regulator links can be beneficial.

Sponsor/client inexperience: without guidance on ESIA and particularly lender’s due diligence, clients can be unaware of ESIA/EMMP obligations which are required prior to financial close (FC) and during construction/operation.

Social issues: Difficult or contentious social issues (such as land acquisition, resettlement and customary rights) are one of the biggest challenges and require experienced handling.

SKM Approach

- Timing and project risk-focused:
  - Every project is different. Not all requirements must be met for every project at the ESIA stage – some may only be applicable at implementation.
  - Focus on project risks (rather than ‘routine’ ESIA components) and WHEN to address.
  - Key risks must be considered in the ESIA. Others can be addressed as actions in the EMMP, at pre-FC or even post-FC, depending on nature of risk/lender agreement.

- Key actions:
  - Client guidance on ESIA process, responsibilities and EMMP obligations.
  - Plan well for all discussions.
  - Be culturally aware.

- Local regulator: Early and respectful consultation. Agree approach and understand ‘soft’ issues (resource/technical capacity) and approvals timeframe.
- Whilst respectful, must drive conversation and be politely firm where onerous activities requested. Regular engagement to build rapport and buy in also contributes to capacity building.
- Timing of key discussions: Early agreement of local approach to inform lender discussions and robust negotiations. Develop approach sufficiently to avoid onerous requirements whilst allowing flexibility for positive/proactive input from lender’s expert.

Summary

Developing country regulatory and operating environments present significant project risks and associated challenges to ESIA practice. SKM manages these challenges with an approach that focuses on key risks in the context of lender approvals. This allows projects to proceed without unnecessary delays, whilst protecting communities and the environment, and managing S&E risks for our clients and their investors.

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