



Netherlands Commission for
Environmental Assessment

Comments on SEA inception report and SEA interim report

Memorandum by the NCEA

May 2012/September 2012



Advice of the Secretariat of NCEA

To SEA steering committee responsible for the SEA for the oil and gas developments in the Albertine Graben, Uganda

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From Secretariat of the Netherlands Commission for Environmental Assessment (NCEA) : Ineke Steinhauer

Date May 2012/September 2012

Subject **Comments on SEA inception report and SEA interim report**

Advice 2012-02

1. Introduction

5 In 2009, the NCEA secretariat issued an advisory report on the ToR for an SEA for the oil and gas sector in Albertine Graben. There are important links between oil and gas exploitation, food and water, as the oil exploration creates risk for water quality of the lake.

10 The advice has led to further involvement with SEA related work within the Oil for Development Program carried out by Norway and the Uganda National Environmental Authority (NEMA). The ToR for the SEA has been adopted mid 2011 by NEMA. As the SEA itself is being developed by professional consultants, the NCEA has been requested by the Steering Committee for the SEA to act as independent quality reviewer of the different reports that are being

15 produced as a part of the SEA process. In 2012, the NCEA commented on:

- the draft Inception Report of the SEA (May 2012)
- the interim SEA report (September 2012)

2. Comments draft inception report (May 2012)

20 The observations are attached in Annex 1 (in the form of Powerpoint presentation).

3. Comments on the interim SEA report (September 2012)

Detailed comments to the interim report have been provided (with track changes in the report, not included here).

5 When reading the Interim report, the impression was that the Inception Report of July also identified key areas of concern in Chapters 6, 7 and 9, which have not or only partly been addressed in Appendix 1 of the Interim report: 'SEA Issue register and analysis'. This would be a pity because all the good work that has been done for the Inception Report is not used in an optimal way.

10 In the attached document (not included here) some parts of the Inception report have been listed, which might be worth wile to check again. This with the aim to 1) see whether this might lead to additional SEA key issues or 2) might help to determine significance of issues (high-medium-low). The selection is probably not complete and is of course for the SEA team to decide.

15 Overall the Interim report is well readable, and easy accessible and understandable.

20 Recommendations for the assessment phase and final SEA report

– Continue with the analysis of which PPPs provide the most suitable platform to follow-up on the recommendations as identified in the SEA report for strategic decision making and who is responsible for this. (A start has been made with this in App. 2 of the Interim report)

25 – Draft and present the Advisory Notes (e.g. recommendations and/or alternative options) according to urgency, scale and level of decision making (e.g national or local) and in easy accessible sets or packages of options for relevant planners/decision makers. It might help to distinguish between a) measures that can or will have to be taken anyway ('quick wins', 'no regret' options or measures that are absolutely necessary) and b) providing alternative options for some measures in terms of (i) yes/no implementation, (ii) different locations, (iii) difference scales or sizes or (iv) difference in ambitions or phasing. The SEA can thus help to provide input for planning and decision making, through identifying the 'best strategies and measures' from an environmental and social point of view. These strategies and measures can be of technical, institutional or legal nature and when having a spatial component, become part of land use/spatial planning.

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Commissie voor de milieueffectrapportage



Observations SEA Inception Report AG, Uganda

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Environmental Assessment

Kampala, May 2012



Introduction

- What is NCEA?
- Earlier involvement in SEA in Uganda and oil and gas in particular
- Request for QA (further agreement on moments and form of QA in next stages of SEA still to be decided upon)
- No expert review, but observations from SEA perspective only
- Inception report, good progress, lot of work already done, but in fact only first step
- Detailed observations in Inception Report itself

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Main observations (1) 'Scoping seems to be lacking'

- Hardly any reference to activities prior to the start of the SEA such as:
 - Scoping workshops April 2010
 - Environmental Sensitivity Atlas
 - ToR of June 2011
 - Series of Steering Committee meetings
- It looks as if SEA started in 2012 only, whereas a lot of the preparatory work (= also part of the SEA!) already took place in 2010-11 (and is well documented)

3



Scoping workshops 2010

- Detailed minutes available (45 p.) regarding (esp. summary p.43-44):
 - kind of decisions in planning process regarding oil and gas development and when these will be made
 - which plan(s) is/are subject to SEA
 - most important environmental and social opportunities and risks
 - most important current and future challenges
 - most important PPPs
 - stakeholders identified!
- Scoping is not mentioned as a step in the different phases of the SEA (p. 20-21 of IR)

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Environmental Sensitivity Atlas

- Only mentioned once in Chapter of baseline information?

5



ToR for the SEA (June 2011)

- Why is this not mentioned?
- What is the relation with the ToR still to be further developed in the IR (Chapter 10?)

6



Steering Committee meetings

- Detailed minutes made
- Materials developed, such as PEPD document (dec. 2010)

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Main observations (2) 'The overall goal of SEA not clear'

- Throughout the IR, there are different statements regarding the aim of the SEA:
 - p.8 To support and guide the National Oil and Gas policy, the SEA....
 - p.8 The SEA shall ensure that negative impacts are minimized and benefits are maximized
 - p.8 The SEA shall suggest a framework for sustainable use...

8



SEA objectives?

- p. 9 gives a list of bullets, which seems to be a mix of SEA activities and SEA outcomes
- p.9 the SEA shall integrate environmental aspects in oil and gas development....
- p. 19 and p. 24 again contain lists with bullets with again another set of aims?
- the ToR of June 2011 also contained a set of SEA objectives

9



Possible reasons for this ambiguity in SEA objectives?

- **Link SEA and planning is not yet very much clear:** The IR lacks to a large extent the link with planning and decision making and is as such not (yet) leading to a 'real' SEA.
- During scoping workshops several SEA objectives have been discussed:

10



Ex. of SEA objectives (1)

- *desirability, extent and pace* of oil and gas development. SEA can allow for a step wise approach of activities starting from the least vulnerable areas and gradually entering the more vulnerable areas with the experience acquired; e.g. Scenario 1: rapid development versus Scenario 2: slow development
- Which PPP can steer this?

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Ex. of SEA objectives (2)

- the *selection or regulation of the best exploration and exploitation technology* from an environmental and social point of view and the choice of *appropriate locations* for exploration and exploitation in order to minimize potential risks to natural and social values and vulnerabilities including *location of infrastructure developments associated with refinery and transport*
- Alt. 1 conventional technology versus Alt. 2 most environmentally friendly technology, Alt. 1 and 2 combined with several routing and location alternatives.
- Which PPPs can steer these decisions?

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Ex. of SEA objectives (3)

- *Options for sustainable co-existence* with fisheries, tourism, agriculture, nature conservation, leading (a combination of) conditions for e.g.:
 - specific/certain types of areas cannot be opened to oil and gas exploration (such as Murchison falls??) or only if certain prerequisites are met,
 - banning or reduction of activities during certain periods of year in order to protect vital biodiversity functions (e.g. to avoid disturbance during breeding).
 - identify costs of going into sensitive areas?? oil horizon is short, nature ever lasting? what will happen after oil?
- Alt. 1 is e.g. a combination of the strictest conditions, Alt. 2 a less strict combination of conditions
- Which plans could contain such conditions?

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Ex. of SEA objectives (4)

- *pollution and waste* (solid, liquid, hazardous and domestic) management, e.g. Centralized/decentralized management options, disposal options and transportation options
- Which PPPs regulate these decisions?

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Ex. of SEA objectives 5, 6, 7 etc.

- Proposals for *improving (institutional) capacity* of different stakeholders
- Proposals for *compensation mechanisms* (both for people and for e.g. nature/biodiversity) and different forms of *conflict resolution* (e.g. building a constituency among communities within the project area)
- Proposals for *cross boundary coordination* of oil development?
- Whether to export* refined oil (added value to the country) or unrefined?

15



SEA objectives, how to prioritise?

Task IR scoping/priority setting:

- 1) which issues/problems need strategic decision making urgently and which problems can be tackled later (see also Annex 4 and 5, very relevant!!)
- 2) give an insight in which issue/problem should be dealt with by which plan (and on which level).

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SEA influence and effectiveness for AG

- The final SEA report would greatly enhance effective planning and decision making if the recommendations, advisory notes, expected outcomes and alternative options could be presented according to *urgency, scale and level of decision making and in easy accessible sets or packages of options* for relevant decision makers!!!

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Main observations (3) 'The IR lacks scope and focus'

- The IR shifts from one thought to the other and back. On the one hand there are the strategies and plans for the oil and gas sector (e.g. 3.3.3) touching upon issues at national level. On the other hand there is the special planning area for the AG (3.3.4), which is more related to physical planning and infrastructure development

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lack of scope and focus cont.

- This is confusing, because some problems and corresponding (alternative) solutions can only be dealt with at national level and within the sector only (e.g. law adjustments, national plans, coordination e.g. in licensing, compensation issues).
- Other problems and solutions need planning and decision making at the area level (Albertine Graben) and are not always directly or clearly related with/caused by oil and gas activities (such as high incidence of poverty, overfishing, wide spread poaching of wildlife etc) and thus fall outside the scope/mandate of this SEA?

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How to improve scope?

- The alternative options/recommendations that the SEA will generate, require different forms/instruments of follow-up at different levels of planning and decision making with different urgency of action. This sifting of problems and alternative options and attaching these to the right level needs high priority attention in the final SEA report.

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Main observations (4) 'SEA implementation mechanism not yet included'

- The IR does not yet elaborate on the tasks and responsibilities of specific stakeholders in the hydrocarbons sector (government, oil and gas companies, affected people etc.) in the implementation of SEA recommendations ('who should manage what?').

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SEA implementation

- What is still needed is an analysis of which policies/plans/programs provide the most suitable platform to follow-up on the recommendations as identified in the SEA report for strategic decision making and who is responsible for this

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To enhance SEA implementation

- Include, as part of the SEA report, a schedule of main partners in the implementation of different plans, such as the different Ministries and Agencies/authorities, local governments, oil companies, the SEA consultants team etc. This implementation should preferably take place at the lowest possible and effective organizational level, striving towards maximum local ownership.
- Also required is a mechanism to coordinate and monitor implementation of the SEA findings.

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Main observations (5) 'Maps are lacking'

- The information in the SEA report is difficult to visualize as maps are lacking, which does not facilitate decision making.
- Maps that are included are hardly legible
- Especially relevant for spatial implications of oil and gas activities in AG

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Use of maps example

- Develop a detailed map with vulnerability categories
- Make the overview of oil and gas activities and their alternatives
- Select the most suitable type of activity in a given location or category
- Develop options for strategic decision making such as (i) applying the greenest operation procedures to all environments and ban the conventional techniques and material or (ii) applying less expensive options in areas where nature and society are not at risk, as the most expensive (greenest) option is not necessarily the most adequate one. A realistic consideration of cost and environmental reward helps to select the best alternative

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Main observations (6) 'Capacity building part of SEA'

- p. 19 states that this is an important part of the SEA 'by widening the understanding regarding the petroleum sector for all directly involved'. This seems rather ambitious in the framework of this specific SEA
- should the SEA not rather stick to identifying capacity building gaps first?
- and focus on law enforcement and dealing with negative env. and social consequences of oil and gas development rather than 'petroleum related matters'?

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Main observations (7) Transboundary issues

- Identified as specific area of concern (9.2)
- Transboundary issues from Uganda to DRC and other way around
- SEA has also started in DRC (information sharing possibilities, lessons learnt?)

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Main observations (9) 'Legal and institutional framework'

- Chapter 5 and Annex 3 (partly overlap)
- 'contains adequate provisions', 'could be strengthened' etc. Who's opinion or recommendation? SEA team assessment?
- summarize what the implications or restrictions/opportunities are for the SEA from all these policies, acts and regulations? Otherwise it is just information (in an annex) which has a high probability of not being used.

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PPP's

- PPP's
 - setting opportunities/provisions
 - providing limiting conditions
 - identifying gaps
 - mention challenges
- Also: important to know when PPPs will be revised or updated. This is opportunity for the SEA to influence (e.g. NOGP updated in 2013)
- Relevance of mentioning international conventions/agreements?
- Chapter 5 and 6, relation?

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Main observations (10) 'Monitoring and compliance'

- IR contains information about (tools for) compliance monitoring is providing a good overview, but what is to be done with this in the framework of the SEA?
- It is relevant considering the SEA objective of 'propose ways of (institutional) capacity of different stakeholders to enforce laws and deal with negative consequences of oil and gas development'? If so, than also an assessment should take place of strengths and weaknesses.

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Main observations (11) 'Baseline conditions'

- Why already start with describing baseline conditions, without proper scoping? Is all this information indeed necessary for sound decision making? Or should the SEA team rather focus on collecting that baseline information in relation to key issues.
- With all this information: what is the relevance for the SEA, what connection is there with oil and gas?
- Conclusions after each section: summarizing challenges/data gaps, helps to focus the SEA
- Include maps! Overlays

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Main observations (12) 'Land use planning'

- Although important, this chapter receives a lot of attention. Why? In case there is a need to know the spatial implications of the oil and gas activities, yes, but not a whole inventory of land use and spatial planning as such.
- Also some overlap with previous chapters
- An oil and gas SEA for the Albertine Graben cannot also solve all problems related to land use planning.

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