



The good, the bad, the ugly

The quality of ESIA practice for port development in emerging countries

By Rob Verheem and Johan Lembrechts

Why this study?

In 2016 the NCEA carried out a study commissioned by the Dutch Ministry of Foreign Affairs to identify possible measures for enhancing the quality of ESIA for port development in emerging and developing countries. The Ministry had started a ‘multi-stakeholder dialogue on land governance’ (hereafter ‘the dialogue’) to determine how best to help improve land governance in emerging and developing countries. It was initiated since the land rights of indigenous peoples are often violated during the implementation of large-scale agricultural, infrastructural or residential projects.

The dialogue aims to identify lessons learnt and best practices supporting pro-poor land governance. Its primary focus is on land governance in the context of infrastructure development, starting with a pilot on port infrastructure, as projects of this type may affect large areas and thus large numbers of people. The NCEA was asked to contribute to the goals of the dialogue by scrutinising past environmental and social impact assessments (ESIAs) for harbours and ports. The study was originally to focus on land governance, but to take full advantage of the initiative it was decided to look at wider issues too.

Our approach

Expert working group

The NCEA is a secretariat operating through ad hoc expert working groups tailored to the advice or support requested. For this port study we assembled a group of six experts covering fields of expertise such as hydraulics, ecology, demography, port planning, socio-cultural and gender issues, and natural resource management.

Suitable port ESIAs

We then identified suitable port ESIAs to be studied. We did so using criteria such as ‘should be recent, i.e. 2008 or later’, ‘focus on new onshore developments as these have the biggest land use consequences’, ‘spread of ESIAs over multiple countries worldwide’ and ‘make reference to good practice standards for ESIA such as IFC, etc.’. This led to eleven ESIAs being selected, most of which dealt with coastal ports to be extended or constructed for the transshipment of containers or bulk materials and which were to be achieved with the financial and technical support of international development banks.

Benchmark

Next, the expert group developed a benchmark for what they regarded as ‘good practice’ port development ESIA. For this, various guidelines were analysed,

ranging from dedicated country guidelines for port development to the general guidelines of international development banks. Our aim was to find a benchmark that would succinctly combine the important standards in all these guidelines. We selected the Equator Principles as the basis for the benchmark, but augmented it with a number of criteria listed in the IFC's EHS guidelines on ports, harbours and terminals and with aspects derived from the OECD guidelines on fair competition, taxation and corruption.

Analysis

The benchmark was then used to analyse the ESIA's: first, to identify the issues they had covered, then the issues they had ignored and finally to arrive at recommendations that would further enhance port ESIA's. Where possible we indicated ESIA's that could be regarded as exemplary in their treatment of specific issues, to serve as inspiration for the quality of future ESIA's. We deliberately refrained from mentioning the bad examples as the purpose of this study was to improve and inspire, not to name and shame.



The good, the bad and the ugly

We found that most of the ESIA's did indeed include many issues and process elements one would expect in a good practice ESIA. Among these were employment and economic opportunities, loss of income, effects of dredging, impacts on ecosystems and encroachment on communities. Surprisingly, however, many important environmental and social issues were not assessed: indeed, for some of these, such as climate change, impact on workers and the financial justification of the port investment, none of the ESIA's could be regarded as exemplary. This is particularly surprising as all eleven ESIA's had been developed under one or more of the safeguarding systems of the financing institutions.

More specifically, the following issues and process elements were lacking in most ESIA:

- **Land governance**

Most of the ESIA failed to describe seasonal access and user rights, such as grazing, hunting, fisheries, and the collection of water, firewood and building materials. The variety in tenure rights, both formalised and customary, was sometimes described in general terms. Indigenous rights were not mentioned and traditional rights were described infrequently.

- **Consultation and grievance mechanism**

Most of the ESIA did not describe either the decision-making and stakeholder engagement process followed while preparing the ESIA/decision or the participatory process to be followed during realisation and exploitation. There were very few mentions of grievance mechanisms, rule of law (or its absence) or of possible discord between national legislation and traditional laws.

- **Economic justification for the port development (the 'business case' or 'viability')**

Even though the justification itself does not necessarily have to be in the ESIA, reference must be made to it to enable a conclusion to be drawn on whether the economic opportunities outweigh the often significant environmental and social consequences.

- **Alternatives for site selection, layout of the port and mitigating measures**

If a site has already been decided on at strategic level, the decision and its justification must be properly referred to in the ESIA at project level.

- **Relevant baseline data**

Most of the ESIA exhaustively listed the available data but paid scant attention to their relevance for the assessment of impacts, to their interrelations and to baseline dynamics. Gaps in the data and risks related to these gaps were often overlooked.

- Cumulative impacts**

None of the ESIA's studied adequately described and assessed the cumulative impacts: for example, those resulting from developments directly associated with the port development or from other developments in the region. In many cases, this absence is attributable to lack of knowledge of anticipated developments and to limited government capacity and (strategic) planning schemes.
- Indirect impacts**

Most of the ESIA's assessed indirect impacts inadequately, even though these may be large. Examples include the effects of the management of waste (or wastewater) on drinking water quality, of pollution on wildlife, of displacement of people and of the influx of workers.
- An accountable Environmental and Social Management Plan**

Such a plan was missing in a significant proportion of the ESIA's, with the result that these ESIA's lack information – for example, on the effectiveness of measures, on which measures can be taken versus the measures that will be taken, and on when measures are scheduled.
- Climate change**

Neither the potential effects of climate change nor the need for mitigation or adaptation were dealt with rigorously in the sample of ESIA's. This finding is surprising given that port infrastructure may be sensitive to sea level rise and to changes in the severity and frequency of extreme weather events.
- Sediment dynamics**

Most ESIA's provided insufficient information on changes in sediment dynamics, even though this is a key impact of port development. Changed dynamics may greatly affect coastal erosion or accretion and thus other socio-economic developments. It will also change ecosystems, habitats and the abundance and diversity of species.
- Impacts on workers**

The impacts of the project on workers, such as on their working conditions and housing, were poorly described in all the ESIA's. In general, no risk assessments had been made with regard to occupational health and safety and basic human rights.

- **Sustainable use of resources**

Most of the projects claimed resources would be used efficiently but failed to explain how. Most of them referred to standard techniques and equipment. None of them considered concepts such as cradle-to-cradle and the circular economy, or renewable energy sources, the efficient use and re-use of resources and the avoidable effects relating to the influx of employees and their families.

Next steps?

As stated earlier, the list of omissions found in most of the eleven ESIA's for port development is surprising, given that all the ESIA's were prepared under the financial institutions' safeguarding systems. The implication is that the existence of these systems is not enough. What is needed is a solid quality assurance system that ensures the safeguards are upheld.

In as far as the sample of ESIA's studies is representative, our recommendation for ESIA's for port development in emerging and developing countries is that these should pay significantly more attention to the numerous issues indicated above.

Paying more attention to these will directly benefit the port development, as it will lead to better projects: for example, port development may be directly influenced by climate change and sediment dynamics (the need for continuous dredging to keep the port open).

The same is true for the local resistance that may be created by ignoring proper land governance, lack of participation in the design of the port or the lack of a proper grievance mechanism.

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