Netherlands Commission for Environmental Assessment

Canada

SEA profile

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SEA background

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Country's planning system

The practice of SEA within Canada takes place at a decentralized level. Each federal government agency and department is responsible for implementing and practicing strategic environmental assessment as is set out in The Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals.

History of SEA

Within Canada strategic forms of impact assessment date back to the 1973 Cabinet Directive on Environmental Assessment and the EARP Guidelines Order of 1984. However, the first formal initiative to develop a strategic environmental assessment system was through the 1990 Cabinet Directive on The Environmental Assessment Process for Policy Program Proposals. In 1999 and 2004, Canada strengthened its commitment to SEA with revisions of the Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals. In 2008, there has been an effort by the Canadian Council of Ministers of the Environment to develop methods and guidelines for regional SEA, which focuses on regional development scenarios. In 2010 the Guidelines for Implementing the Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals were revised.

Legal framework for SEA

Framework/Enabling law

There is no framework law in which the SEA requirement is embedded. The SEA requirement is based on the Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals instead (1990), which is not legislation.

Approving authority of enabling law

While SEA is not legislated, it is enabled by a Cabinet directive, which was approved by the Cabinet of the federal governement.

First national detailed SEA regulation

Federal Cabinet Directive on Environmental Assessment of Policy, Plan and Program Proposals ? national and international application. International application pertains to proposals from a Canadian source.

Recent updates and additions to the SEA legislation

While the Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals is not legislated or regulated, it was updated in 1999 and further revised in 2004. It includes provisions for the improved transparency of the process. The Directive now states, ?Departments and agencies shall prepare a public statement of environmental effects when a detailed assessment of environmental effects has been conducted through a strategic environmental assessment?.

Sector specific procedures/regulations

While there are no sector specific procedures or regulations stated by the Government of Canada or within the Directive, the aim of the Directive is to be flexible. In this respect, although each federal government agency or department must comply with the Directive, it can develop their own framework and guidelines for the implementation and carrying out of SEA within their organization. For example, the Canadian International Development Agency has an SEA Handbook and the Department of Foreign Affairs and International Trade have a policy on SEA as well as a Handbook on how to conduct SEA.

Guidelines

In 2010, the Canadian Environmental Assessment Agency has revised the Guidelines for Implementing the Cabinet Directive in collaboration with the Privy Council Office. The aims of the Guidelines are to inform public servants about the benefits of the use of SEA as well as best practices for implementing and carrying out SEA. The Guidelines are produced to be flexible to facilitate their application in a variety of policy settings; practical in that they do not necessarily require large quantities of expertise and resources; and they are systematic as they are based on logical and transparent analysis.

Objective SEA

According to the Guidelines for Implementing the Cabinet Directive, the Government of Canada is committed to the goal of sustainable development. As such, there is a need to make informed decisions in support of sustainable development, which would require that decision makers at all levels integrate economic, social and environmental consideration into the process. The Guidelines and the Cabinet Directive point to strategic environmental assessment to accomplish this commitment.

Scope of SEA application

The Cabinet Directive stipulates that all policy, plan and program proposals be subject to a strategic environmental assessment when the following two conditions are met:

1. The proposal is submitted to a Minister or to Cabinet for approval; and

2. When the implementation of the proposal may result in important environmental effects or impacts, either positive or negative.

Exemptions from SEA application

The Cabinet Directive does not give any specific exemptions for types of policy, plan or program from the application of SEA.

SEA approach

The SEA Process is based on the principles of sustainable development and incorporation of environmental, economic and social aspects into the decision making process at a strategic rather than project level. The federal process is not based on the EIA model.

SEA tiering with EIA

There are no provisions within the Directive or the Canadian Environmental Assessment Act, 2012 for tiering of the EIA and SEA systems. However, the Directive Guidelines do state that with the use of strategic environmental assessment, agencies and departments would be better able to ?streamline project-level environmental assessment by eliminating the need to address some issues at the project stage?.

Institutional setting for SEA

Central SEA authority

There is no central SEA authority within Canada. The Canadian Environmental Assessment Agency is present to provide training and support for other federal agencies and departments if the need arises. The Agency holds training courses for the implementation of SEA and has produced the Guidelines for Implementing the Cabinet Directive in conjunction with the Privy Council Office.

Mandate for exemption of SEA obligation

The Guidelines for Implementing the Cabinet Directive set out three scenarios, deemed special cases, where no strategic environmental assessment is required:

- Proposals that have been prepared in reaction to an emergency where time is considered insufficient to conduct a strategic environmental assessment (the determination of an emergency is decided by the Minister).
- In situations where there is a matter of urgency (i.e. the economy or a particular industrial sector) and the normal process of Cabinet consideration is shortened and even a simplified strategic environmental assessment cannot be conducted.

- For any issues that have already been assessed for their potential environmental impacts (i.e. subset of a previous policy, plan or program), or submissions to the Treasury Board that has previously been assessed under a previous proposal to Cabinet or where an assessment has occurred as a project under the Canadian Environmental Assessment Act.

(De)centralisation of SEA mandates

Vertical decentralisation does not occur within Canada; each province or territory is responsible for implementing its own SEA legislation and regulations. Horizontal decentralisation does occur within Canada; each federal government agency and department is responsible for complying with the Cabinet Directive. Further to this, each agency and department can develop methods and guidelines for implementing an SEA system that both comply with the directive and their own mandates.

Initiator of the SEA

The owner of the proposal initiates the SEA, that is to say the agency and departments that are presenting proposals to the Minister or Cabinet are responsible for conducting the SEA.

SEA procedure

Establishing context

Overview SEA procedure

The Cabinet Directive suggests a multi-step approach to conduct an SEA in Canada. As a first step, the lead deparment or agency must determine whether or not an SEA is required. If required, it is necessary to conduct a preliminary scan in order to identify potential environmental implications of policies, plans or programs. At the same time, potential project environmental assessment requirements, under the Canadian Environmental Assessment Act (2012), are also identified. If the preliminary scan reveals that a detailed SEA is needed, a detailed SEA is conducted and its results are reported on. The Directive guidelines further suggest that after completion of the SEA, reporting on the SEA practice takes place.

Screening requirement and authority

The Cabinet Directive Guidelines require a preliminary scan to determine whether an SEA is required. Departments and agencies developing the proposal are responsible for undertaking this task.

Screening process

The process requires responsible federal agencies and departments to determine whether a proposal meets the two requirements set out in the Directive (i.e. does the proposal need approval from a Minister or Cabinet and will it have either positive or negative important environmental effects). If the proposal does not meet both requirements, an SEA is not required.

The Guidelines state that a preliminary scan screens proposals for potential, important environmental effects. If important environmental effects are identified, a strategic environmental assessment is required as early as possible in the development of a proposal. According to the Guidelines, the analysts should:

1. Identify the direct and indirect outcomes associated with implementing the proposal.

2. Consider whether these outcomes could have an effect on the environment or on any of the Federal Sustainable Development Strategy's goals and targets. The environment is defined as the components of the earth including:

   a) Land, water and air, including all layers of the atmosphere;

   b) All organic and inorganic matter and living organisms;

   c) The interacting natural systems that include components referred to in paragraph a and b above.

The Guidelines states that a variety of tools can be used to conduct a preliminary scan, including any available matrices, checklists and experts within and outside of the agency or department. The Guidelines also distinguish six criteria that can aid in determining the outcome of the preliminary scan (i.e. important environmental effects or not):

1. Does the proposal have outcomes, either positive or negative on natural resources?
2. Does the proposal have direct or likely indirect outcomes that will cause considerable positive or negative impacts on the environment?
3. Do the outcomes of the proposal affect the achievement of an ?environmental quality goal? such as reduction in greenhouse gas emissions or protection of an endangered species?
4. Would the proposal affect the number, location, type and characteristics of sponsored initiatives, which would then require an environmental assessment under the Canadian Environmental Assessment Act or equivalent process?
5. Does the proposal involve a new process, technology or delivery arrangement that has important implications for the environment?
6. Is the proposal such that the scale and timing will result in significant interactions with the environment?

If the scan determines that there are no important environmental effects of the proposal, the decision is documented and no further analysis of the environmental effects is required. The SEA process is then considered complete. If the scan determines that important environmental implications will result, or if there is a high level of uncertainty or risk associated with the outcome, then more detailed analysis of the environmental effects is conducted through a detailed SEA.

Timeline Screening

No timeline exists within the Guidelines.

Identification of stakeholders

Although there is no explicit mention within the Guidelines of identifying stakeholders, there is a provision for considering stakeholders written within the definition of environment. This definition can be found within the requirements an analyst should complete during the preliminary scan (please see Screening Process section above).

Setting SEA objectives

Although specific reference to SEA objectives for planning are not set out within the Guidelines, one of the guiding principles is to have early integration. The Guidelines state that to be in concert with decision-making that is consistent with sustainable development an analysis of environmental

considerations should occur and integrate fully into the development of a policy, plan or program. Early integration would ensure that consideration for environmental effects occurs during the planning stage and therefore before making irreversible decisions. In this way, strategic environmental assessment will be able to identify issues that may require further consideration.

Implementing the SEA

Scoping process

The scoping process involves building upon the preliminary scan in determining the scope and nature of the environmental effects that could arise due to the implementation of the proposal. The Guidelines do not give specific tools to be used in the process. However it does state that the agencies and departments are encouraged to develop their own sources of information and analytical tools (i.e. experts, matrices, checklists, modelling, and scenario building). This speaks to the guiding principle of flexibility. In addition, the Guidelines emphasize that an appropriate level of analysis is required. In other words, the scope of the analysis should be proportionate to the level of expected effects.

Participation in scoping

The Guidelines state that where appropriate, the strategic environmental assessment should identify public and stakeholder concerns in regards to environmental effects. The Guidelines go further to state that recognition and understanding of public concerns can strengthen the quality and credibility of the policy, plan or program decision in various respects. The Guideline also identifies sources of information on public concern to utilise in the SEA (i.e. economic and social analysis on the proposal; public consultation mechanisms used by the agency or department; expert agencies or departments; and outside experts and organizations). The Guidelines require departments and agencies to prepare a public statement of environmental effects with the results from the strategic environmental assessment when the policy, plan or program is approved or announced. Beyond this, there is no requirement for further stakeholder participation.

Outcome of scoping

The expected outcome of the scoping exercise is when environmental considerations as well as economic and social have been taken into account. The scoping of the exercise will influence the nature of the proposal and its manner of implementation. There are no specific objectives or requirements within the Directive or the Guidelines in concern to expected outcomes.

Baseline data

There are no specific requirements within the Cabinet Directive in regards to collection of baseline data.

Alternatives

There is no specific requirement for the consideration of alternatives within the Cabinet Directive. However, one of the guiding principles within the Guidelines is to examine the alternatives. The Guidelines state that the comparison of alternatives and their subsequent environmental effects will aid in reducing the potential environmental risks that can arise from the implementation of the proposal.

Assessment/mitigation of effects

The Guidelines state that the analyst should consider the need for mitigation measures that would reduce the negative environmental effects and consequences of the proposal as well as consider the opportunities that exist to enhance the positive environmental effects. Specifically mitigation or enhancement measures include ?changes in the proposal, conditions that may need to be placed on projects or activities arising from the proposal, or compensation measures?.

Institutional analysis

This is not a requirement of the Canadian federal SEA process. It is however recognised as an important element of a successful SEA and implementation of the PPP.

Content of SEA report

The Guidelines articulate that the SEA should address the scope and nature of potential effects, the need for mitigation or enhancement measures, the scope and nature of the residual effects, follow-up and public and stakeholder concerns. The degree of effort and detail that will be included in the SEA is dependent upon the level of environmental effects expected and therefore the assessment must consider factors such as location and magnitude, frequency and duration, timing, risk, uncertainty, reversibility, cumulative nature, the need for mitigation, follow-up and public concern.

A proposal sent to the Minister, will include a summary of the SEA analysis and the SEA findings should reflect the recommendations to the Minister.

A proposal sent to the Cabinet for approval, will contain a summary of the SEA in the Analysis section, the Environmental Considerations section of the Ministerial Recommendations (MR) should reflect the SEA results, and the Communications Plan should address the public concerns raised in concert with the environmental effects associated with the proposal.

A proposal sent to the Cabinet for approval to Treasury Board, will contain a summary of the SEA analysis. If the submission is a sub-set of a previously approved proposal, the new proposal can contain a summary of the previously conducted SEA.

Where appropriate, new government regulations will have an SEA conducted and in such instances, a summary of the SEA analysis will be contained in the Regulatory Impact Analysis Statement, submitted to the Special Committee of Council for approval.

Separate reporting of the SEA document itself is not required, although public statements should be written in an effort to secure a more transparent and credible process.

SEA review

There are no provisions for review of SEA within the Cabinet Directive; it is therefore dependent upon the agency or department?s internal policies surrounding the implementation of SEA.

Participation in review

There are no provisions for participation in review of SEA within the Cabinet Directive; it is therefore dependent upon the agency or department?s internal policies surrounding the implementation of SEA.

The Guidelines for implementing the Cabinet Directive require departments to prepare a public statement of environmental effects when a a detailed SEA has been conducted. This statement aims to demonstrate

that environmental factors have been integrated in the decision-making process. In case of proposals with severe adverse effects or serious public concerns, a public document that discusses the environmental effects in detail can be released in addition to the public statement.

Timeline review

There are no provisions for a timeline of the review of SEA within the Cabinet Directive; it is therefore dependent upon the agency or department?s internal policies surrounding the implementation of SEA.

Informing and influencing decision-making

SEA and planning decision-making

Within the Cabinet Directive, there is no indication that a planning decision cannot be made without an SEA. However, to comply with the Cabinet Directive, agencies and departments must ensure that an SEA has been conducted, and this would integrate environmental as well as economic and social aspects into the proposal and therefore planning decision. SEA is encouraged to be done even if the PPP is not being approved by Cabinet or a Minister.

Recommendations for decision-making

Results of preliminary scans and SEAs are included in decision documents to Ministers and Cabinet.

Justification of decision

SEA makes recommendations in regards to environmental consideration of a proposal; however, there is no requirement for the decision to be justified based on the SEA results.

Monitoring

Monitoring requirement

There is no official requirement for monitoring. However, the Guidelines state that the SEA should consider the need for follow-up measures to monitor environmental effects of the proposal or to make certain that the implementation of the proposal supports the sustainable development goals. The Guidelines suggest that departments and agencies have reporting responsibilities and that they shall mention the results of their SEA practices in their Reports on Plans and Priorities and in their Departmental Performance Reports.

Evaluation requirement

There is no official requirement for evaluation; however, the Guidelines state that the SEA should consider the need for follow-up measures to monitor environmental effects of the proposal or to make certain that the implementation of the proposal supports the sustainable development goals.

SEA practice

Annual no. of SEAs

The Canadian Environmental Assessment Agency does not track the annual number of SEAs in the federal government. The Canadian Environmental Assessment Agency hosts a web portal where departments and agencies can provide a link to their public statement webpages.

Central SEA database

Currently a central database for SEAs that have been conducted does not exist. However, agencies and departments are required to keep all their public statements that were created in response to an SEA being conducted. Access to these public statements is available either by written request to those responsible within the organization, or via internet access (see Other Links below to visit some of these sites).

Practice reviews

The Guidelines state that under the Auditor General Act and the Federal Sustainable Development Act, the Commissioner of the Environment and Sustainable Development is tasked with overseeing the government's efforts to protect the environment and promote sustainable development. The Commissioner's office will hold government accountable for greening its policy, operations and programs and will review progress in the implementation of the Federal Sustainable Development Strategy. As part of this role, the Commissioner can conduct performance audits on departments and agencies SEA practice. A third party evaluation was undertaken in response to a recommendation by the Commissioner

in 2004 that the Privy Council Office evaluate the effectiveness of the Cabinet Directive. Federal deparments and agencies can conduct internal audits as needed.

Case studies

The Canadian Environmental Assessment Agency conducted an SEA workshop where upon they used case studies to discern the importance and key aspects of SEA to the participants.

Professional bodies

IAIA

Capacity development

The Canadian Environmental Assessment Agency plays a supporting role to those who are undertaking SEA. The Agency provides a training course titled Introduction to Strategic Environmental Assessment. Below is a link to the Agency?s workshop conducted in 2004, where further information about the implementation of SEA in Canada can be found.

Canadian Environmental Assessment Agency ? Strategic Environmental Assessment Workshop 2004 Key Messages: Challenges, Standards, Critical Factors and Best Practices.

SEA links

Links to laws/regulation

Government of Canada: Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals and the Guidelines for Implementing the Cabinet Directive (2010).

Other relevant links on SEA

Agriculture and Agri-food Canada

Canadian Environmental Assessment Agency

Canada Economic Development for Québec Regions

Finance Canada

Fisheries and Oceans Canada (DFO)

Foreign Affairs and International Trade Canada (DFAIT)

Industry Canada

Natural Resources Canada

Parks Canada

Transport Canada