



Netherlands Commission for
Environmental Assessment

Report ESY–Mapping Workshop, 23 –25 November 2021

GAMBIA



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Report by the NCEA

Title	Report ESY–Mapping Workshop, 23–25 November 2021
To	Ministry for Environment, Gambia
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Date	9–12–2021
From	The Netherlands Commission for Environmental Assessment
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1. Summary

The Economic Community of West African States (ECOWAS) is currently developing a draft regulation relating to the harmonisation of environmental assessment regulations within ECOWAS. One of the recommendations following a review of the draft regulations by a Technical Working Group of the Netherlands Commission for Environmental Assessment (NCEA), was for each ECOWAS member state to analyse its current environmental assessment legislation and practice to facilitate the process of harmonisation across the region. To this end, the National Environmental Agency of the Gambia requested NCEA to facilitate a workshop to systematically analyse the country’s legal, policy and institutional status relating to environmental and social impact assessment (ESIA). NCEA, in conjunction with the Southern African Institute for Environmental Assessment (SAIEA), has developed a diagnostic tool to assess the quality of national ESIA systems, called ESY-map. ESIA practitioners and stakeholders involved in ESIA jointly apply the ESY-map tool in an interactive workshop which is facilitated by experts from NCEA and/or SAIEA. Each aspect of the ESIA process – both the legal requirements and practice, is systematically analysed with the help of a standard set of questions; the goal is to achieve consensus amongst all the stakeholders present on the score allocated. The outcome is a graphical representation of the quality of the ESIA system in the country. The results clearly highlight the strengths and weaknesses of the country’s ESIA system, so that interventions can be targeted at the priority items. An ESY-map workshop was held in Banjul, the Gambia on 23–25 November 2021, with a broad representation from NEA, other line ministries, ESIA consultants, academics and civil society. The country achieved an overall score of 51 out of 100. Scoring of the individual components of the system is shown below.

Section	Quick Scan score	Detailed Scan score*
I ESIA Process	60.5	63**
II Enabling Conditions	42	n/d
III Capacities	n/d	46
IV ESIA Performance	59	46
V Context	47.5	47.5
Average***	49	51

n/d not determined

** Not all questions were subject to a detailed scan. The average of the completed DS scores supplemented with QS scores is found here.*

*** Section 1, ESIA process, makes distinction between legal requirements and practice. The requirements scored on average 62 points & practice 64 points. The average of these two is presented in this table.*

**** The first average is based on QS scores + DS score for Capacities. The second average is based on DS scores + QS score for Enabling Conditions.*

Although the current National Environment Management Act, 1994 is rather old, the ESIA process is quite clear and well understood by those involved in it. There was agreement that ESIA often leads to better project outcomes than if it was not used. However, there are some aspects of the ESIA process that are not aligned with global best practice, indicating room for improvement. Some of these aspects include: screening, scoping, environmental and social management plans, post-construction monitoring and auditing. Furthermore, key issues that

have emerged since 1994, which are now an integral part of ESIA practice and international donor safeguard systems, are not mentioned in the 1994 Act e.g. climate change, gender, community health and safety, labour and working conditions, involuntary resettlement, cultural heritage and trans-boundary projects. With the 1994 Act currently under review, the timing of this workshop provides an opportunity for NEA to incorporate some of these findings into the new legislation.

Some of the weaknesses identified in the section on Enabling Conditions included: insufficient funding for NEA, lack of in-country professional education and training on ESIA and related aspects, difficulty in obtaining data and documents and the fact that there is no formal or even informal professional network or association for consultants and other ESIA stakeholders.

In terms of capacity, it was very evident that NEA and the line ministries are better equipped to administer ESIA (in the form of training, facilities, resources, mandate and management), than civil society groups who lack a common approach, training and adequate resources to actively participate in ESIA.

The low overall score for Section V Context was affected by the fact that environmental and social issues are not topical in the country – either in politics or in the popular media, accessing baseline data is challenging and there is a level of political interference – mostly relating to government contracts.

2. Introduction

On 23–25 November 2021, the Gambian National Environmental Agency (NEA) and the Netherlands Commission for Environmental Assessment (NCEA) conducted an ESY-map workshop. The workshop was held in the context of the ECOWAS initiative to harmonize environmental assessment (EA) policy. The aim of the ESY-map was twofold:

1. Provide an analysis of the Gambian EA system, thus contributing to better understanding of similarities and differences amongst West African EA systems and thus provide input to the ECOWAS harmonization process.
2. Analyse the strengths and weaknesses of the Gambian EA system, and identify actions to further improve the system.

In an ESY-mapping workshop, a group of practitioners and stakeholders involved in ESIA in a specific country jointly analyse ESIA requirements and practice with the help of a standard set of questions. The outcome is a graphical representation of the quality of the current ESIA system. The tool was developed jointly by the NCEA and the Southern African Institute for Environmental Assessment (SAIEA).

At the heart of the ESY-map is a questionnaire that addresses key elements of the ESIA system. It consists of two levels. There are 37 Quick Scan questions that address the ESIA system more generally. Each of these questions is linked to the second level: a set of 150 detailed questions for more refined analysis. These 150 questions make up the Detailed Scan of the ESIA system. The Quick Scan was conducted on Day 1 in a plenary session and the Detailed Scan took place on Day 2 in a combination of plenary sessions and break-out groups. The third day of the workshop was devoted to the development of action plans to address some of the weaknesses identified during the ESY-map workshop and build on some

of the strengths. The action plans were developed in break-out groups and an assessment of training capacities was evaluated using Mentimeter.



Stephen Teeuwen from NCEA assessing ESIA experience at the start of the workshop



The workshop participants during a plenary session



Bryony Walmsley of SAIEA demonstrating how the ESY-map results are portrayed



Break-out groups evaluating capacities (Section III of the ESY-map)

Thirty-five representatives of the National Environmental Agency (NEA), members of the EIA Working Group, civil society, academia and ESIA consultants were invited to the workshop. A total of 25 delegates registered, but actual attendance numbers fluctuated over the two and a half days. The breakdown of the delegates who registered was as follows

- NEA staff (9)
- Members of different line ministries – most of whom are members of the EIA Working Group, including from the Departments of Forestry, Fisheries, Physical Planning, Lands and Surveys, Water Resources, Parks and Wildlife, as well as the National Roads Authority, Gambia Fire and Rescue and the National Disaster Management Agency (9).
- Representatives from civil society (2)
- ESIA consultants (3)
- Academia (1)
- Media (1)

3. Results

In this chapter, the scores for the different parts of the ESIA system are presented. Each section starts with a spider diagram, providing an overview of the scores given by the participants, followed by a description of how these scores came about.

3.1 ESIA Process

ESIA Process

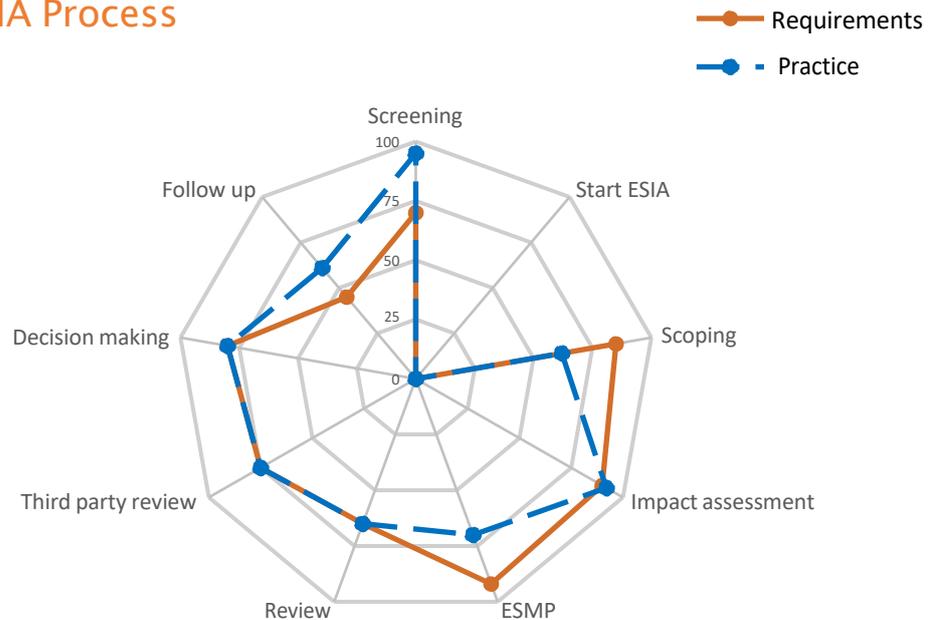


Figure 1. ESIA process scores

Screening

Quick Scan (QS) score: 70; Detailed Scan (DS) scores: requirements 70 & practice 95

The Gambia has a relatively unique system where during the screening phase a relatively detailed project information form needs to be filled in. The form even includes preliminary information on potential impacts and their mitigation measures. Hence, much information is provided at an early stage.

However, the criteria on the screening list, where it is determined if an ESIA is required or not, is not very specific. Often, no distinction in size or locations (such as socially sensitive environments) is made. For example, waste treatment requires a Category A project, even for small plants. The NEA has the discretion to decide that a lighter Environmental Impact Statement (EIS) may be required, instead.

Start ESIA

QS score: 0

It is not a requirement to announce the start of the ESIA procedure, and this does not occur in practice.

Scoping

QS score: 60; DS scores: 85 & 62

Another unique feature of the Gambian EA system is the scoping procedure. Rather than requiring the proponent's consultant to undertake a scoping study and develop the ToR for the EIS, the NEA EIA Working Group is responsible for doing this, as well as providing input on the ToR. The ToR is based on the project description provided during the screening phase, as well as input gained from a site visit and stakeholder consultation.

In practice, the quality of the scoping phase depends on the project. For government-funded projects, information provided in the screening form is not always complete, leading to less robust scoping. The quality of information gained from project-affected persons (PAPs) also depends on the type of project, and tends to be less comprehensive for government-funded projects. Finally, the scoping activities undertaken by NEA and the EIA Working Group does not always include an alternatives assessment (of locations, routes, technologies, designs etc), in which case it is not consistent with global best practice.

Impact assessment

QS score: 75; DS scores: 90 & 92.

In general, there was a sense of satisfaction regarding the quality of the EISs completed (Figure 1). The requirements in the Gambian legislation are clear on the contents of an EIS, and in practice the contents of the EISs adhere to these requirements. In addition, there was consensus that the quality of the consultants drafting the EISs is high, which is reflected in the quality of the reports as well. However, there are some consultants practicing in the Gambia who have less experience and therefore some EISs submitted to NEA are of a lower quality.

ESMP

QS score: 75; DS scores: 92 & 70

The ESMP is at the heart of the EIS, and contains a description of mitigation measures to avoid, reduce, restore or compensate the identified potential impacts. In Gambia, some of the requirements for the ESMP are included in the legislation. However, important details are missing, such as the requirement to describe who is responsible for managing the mitigation measures, what budget is necessary, and who is responsible for monitoring. The scores for

'practice' reflect this lack of detail on ESMP requirements (see Figure 1).

Review & Third Party Review

Review QS score: 65; Third Party Review QS score: 75

EIS review is conducted by the EIA Working Group. This working group consists of NEA members, as well as members of other line ministries, and sometimes also consultants or civil society.

However, it was reported that the quality of the comments made by members of the Working Group differs. There was consensus that there was greater diligence and commitment by NEA Working Group members than by some of the other Working Group members. The members sent to the ESIA Working Group by other line ministries were sometimes very junior and not technically equipped to make significant contributions. Another problem was a lack of motivation or understanding of how ESIA can add value to projects and sustainable development. Procedural issues were mentioned, when documents arrive at the wrong place, wrong time, or at the wrong person.

For Category A projects, external expertise can be mobilized to assist in EIA review. In practice this is done, when relevant.

Decision making

QS score: 80

ESIA is a prerequisite for an Environmental Approval. The Executive Director of the NEA awards the certificate based on advice from the ESIA Working Group. However, the process is prone to political interference (where NEA decisions are overturned), especially in the case of government-funded projects.

Follow-up

QS score: 40; DS scores: 45 & 61

Follow-up is generally considered a relatively weak aspect of the Gambian EA system. The requirements in the Gambian legislation are limited, e.g. there is no requirement for publication of monitoring reports, but it is especially in practice where the limitations are most pressing. The main issue is the lack of capacity to conduct monitoring: there is no time to conduct site visits, and there is not enough money to finance these.

To the extent that monitoring and compliance auditing are done, they are usually only undertaken during the construction phase, with limited scrutiny during the operational phase. Also, monitoring is usually stronger in the case of private projects, as opposed to government-funded projects. In the case of the former, the level of self-monitoring depends on the project proponent, but it is generally considered to be of sufficient quality. In the case of the latter, reminders often need to be sent for self-monitoring, and follow-up recommendations and corrective actions are not always carried out.

A specific point meriting attention: often the ESMP is not carried out before the construction tender process commences, or in cases where it has been completed, the ESMP is not included in the tender documents for the contractor to price. This means that there is only a general indication of environmental impacts before the contract is awarded. A budget for environmental and social impact management may be allocated by tenderers, but it is not based on a detailed ESMP. This has the potential to lead to over-budgeting, or – more likely – under-budgeting for ESMP implementation.

3.2 Cross-cutting issues in the ESIA process

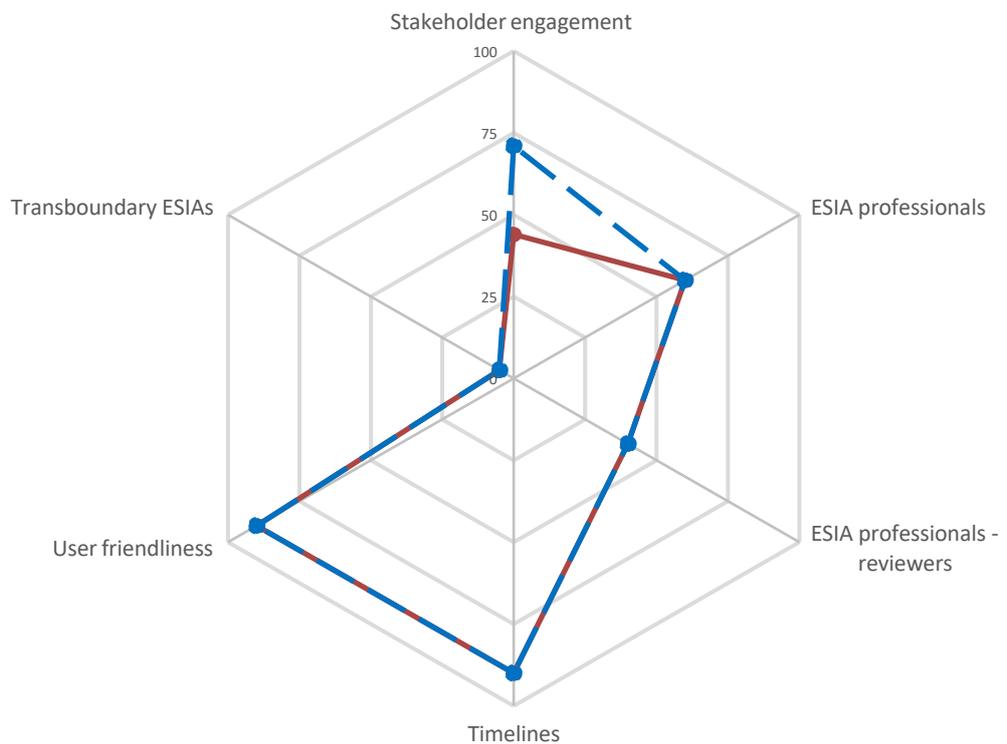


Figure 2. Cross-cutting issues ESIA process

Public participation

QS score: 80; DS scores: 44 & 71

Public participation is required throughout the Gambian ESIA process. However, the legal documents consulted do not include specifics such as a Grievance Redress Mechanism (GRM) or registration of consulted stakeholders. In most countries, early stakeholder consultation is undertaken by the proponent and his/her ESIA consultants during the scoping stage, but in the Gambia, the EIA Working Group conducts a site visit and meets with local stakeholders. This is somewhat problematic as, first, engagement with potential stakeholders may be limited and, second, it may be perceived to present a conflict of interest, particularly in the case of government-funded projects. The second stage of public consultation takes place during the ESIA stage and is conducted by the ESIA consultants. To a certain extent, the NEA

includes requirements for ongoing stakeholder engagement when it develops the ToR for the ESIA. Also, more strict requirements are adhered to in the case of donor-funded projects. Once the ESIA has been completed, the law allows NEA to invite further comments from the public and even hold a public hearing if necessary.

In practice, the picture is mixed, and participants indicated a medium level of satisfaction with public participation. During drafting of EISs, consultation is usually well-conducted, including at community-level. This receives specific attention by the NEA in its review. Also, there are concrete examples of consultation leading to changes in project design.

The most notable shortcoming in public participation is access to information. Documents (such as the ToRs and EIS reports) are available at NEA offices. However, it can be a time-consuming process to access these physical copies, and the website where information might be found online is down. Also, EISs are usually not translated into local languages, making it difficult to understand for most stakeholders.

Environmental and Social Assessment Professionals (ESAPs) and Reviewers

QS ESAPs score: 60; QS reviewers score: 40

The quality of most consultants is high, leading to good quality reports. However, in practice they are not able to meet demand, which means that less-qualified consultants also draft EISs, usually with lower quality as well. The NEA is working on a certification scheme for consultants.

There is no association of ESAPs or any other professional network or platform.

Timelines

QS score: 90

For most EIS reports, the review process takes 90 days. Sector-specific guidelines, e.g. for petroleum projects, have longer timelines—up to 110 days. Participants indicated their satisfaction with the timelines.

User friendliness

QS score: 90

Gambian legislation is generally clearly written and easy to understand.

In practice, project promoters pass by the Gambia Investment and Export Promotion Agency (GIEPA) office (a one-stop-shop for investors and entrepreneurs) for information on permitting and other requirements, including ESIA requirements. However, the information provided by the GIEPA relating to the ESIA process is sometimes inadequate.

Transboundary EIS

QS score: 5

The Gambian legislation includes some provisions on Transboundary ESIA. However, this is not very detailed, and could be further expanded. Most notably a bilateral ESIA agreement with Senegal (the only neighbouring country), stipulating when to inform each other, would be a useful addition to the legislation on transboundary practice.

The ECOWAS initiative on harmonization will ensure adaptation of more specific guidelines for transboundary projects.

In practice, no transboundary ESIA has taken place yet. There are examples of transboundary projects e.g. a powerline interconnector, but the ESIA aspects were addressed solely at the national level.

3.3 Enabling conditions

Enabling Conditions

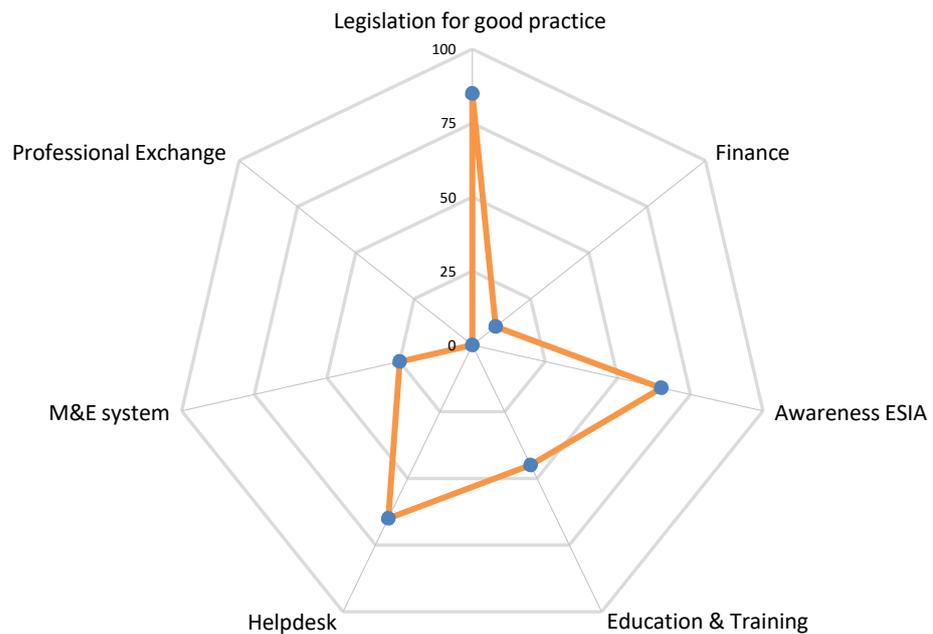


Figure 3. Enabling conditions

Legislation for good practice

QS score: 85

The first Gambian legislation on ESIA was developed relatively early, in 1987, and as such the Gambia was one of the first countries in West Africa to promulgate EIA legislation. The second National Environment Management Act of 1994 is clearly written and describes the ESIA process well. As described above, details in some aspects relating to monitoring, ESMP, etc., and emerging issues e.g. climate change, gender, etc are lacking. Also, over time and as the body of laws in the country has developed, contradictions with legislation in other areas have appeared. Efforts are being conducted to remove these contradictions. All in all, although it is old, the EIA legislation scores well in Gambia.

Finance

QS score: 10

Funding of the ESIA system is a problem in the Gambia. Mechanisms to fund the activities of the NEA are in place, but in practice they do not result in sufficient funding. Fixed percentage contributions to NEA, as per the requirements of the legislation, from large capital projects go through the Ministry of Finance, where on-payments to NEA may be delayed, or be less than they should be.

The lack of finance leads to other problems, some of which were indicated earlier in this report: there is insufficient funding for site visits, capacity development is lacking, and expertise for review may not always be fully mobilized.

Awareness of ESIA

QS score: 65

ESIA is well known at policy level – all Ministries/Departments/Agencies are aware of it. However, it may be less well-known by investors and the general public. Media coverage is only there for large-scale projects.

It was also noted by the participants that the original Environmental Act was created in 1987, before the Rio Convention in 1992. Thus it is a well-known concept. However, while at first the NEA was housed in the Offices of the President, thus affording the environment a high profile, it has since slid down the political agenda. There is a perception that ESIA is costly and time-consuming, leading to delays in development projects.

Education & Training

QS score: 45

There is a course on ESIA as a module at the University of the Gambia and the Gambia Technical Training Institute (GTTI) offers courses on topics relating to development and the

environment and stakeholder consultation. However, all the courses offered are relatively superficial. The NEA does refresher training for the Working Group on basic concepts e.g. screening, scoping, review etc. In all, however, more opportunities for education and training are necessary, in order to increase expertise and to educate new ESIA professionals.

Helpdesk

QS score: 65

A helpdesk function does exist at the NEA offices, but this does not exist online. The Facebook page of the NEA is the only online access for interested people, but this does not include a specific page for ESIA. This means that although the information is there, it is not always easily accessible, especially for people living in remote areas.

M&E of the ESIA system

QS score: 25

No studies have been undertaken on the effectiveness of the ESIA system in the Gambia.

Professional exchange

QS score: 0

No association of ESIA professionals exists in the Gambia. Most participants expressed a need for such an organization.

Civil society is organized in an umbrella-organization, but no cooperation on ESIA exists.

3.4 Capacities

NB: for this section, only Detailed Scans were carried out.

Capacities

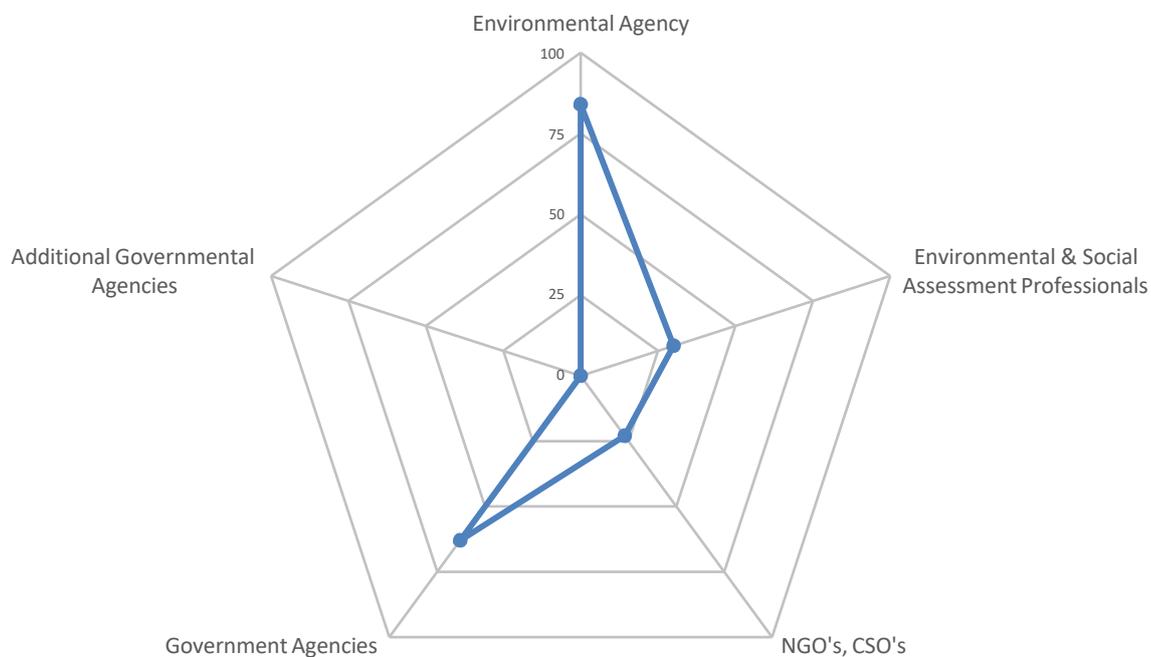


Figure 4. Capacities

NEA

DS score: 84

The civil servants working at the NEA are generally well-qualified to exercise their job. The mandate and structure are there, although resources may sometimes be lacking to conduct all the site-visits necessary.

Consultants

DS score: 30

As indicated above, the supply of well-qualified consultants is not sufficient to meet demand. In addition, the consultants indicated that it is difficult to access data, instruments or tools such as checklists—if they exist at all. Knowledge in the form of reports, studies, etc., do exist, but are difficult to access as they are kept by individuals (be it civil servants or NGOs). Also, sometimes it is difficult to receive authorization to receive data.

Civil society

DS score: 23

There are only a limited number of NGOs and CSOs who have finances, capacity and organization to effectively participate in the ESIA process. Training opportunities to strengthen capacity are limited. In addition, civil society have limited access to tools such as checklists. There are no strategic relations to strengthen cooperation.

Other governmental agencies

DS score: 63

The other governmental agencies feel there is no clear mandate for any other ministry other than through the ESIA working group. Resources are inadequate and although information is available, access is difficult. Training opportunities to strengthen capacity are limited.

3.5 Performance

ESIA performance

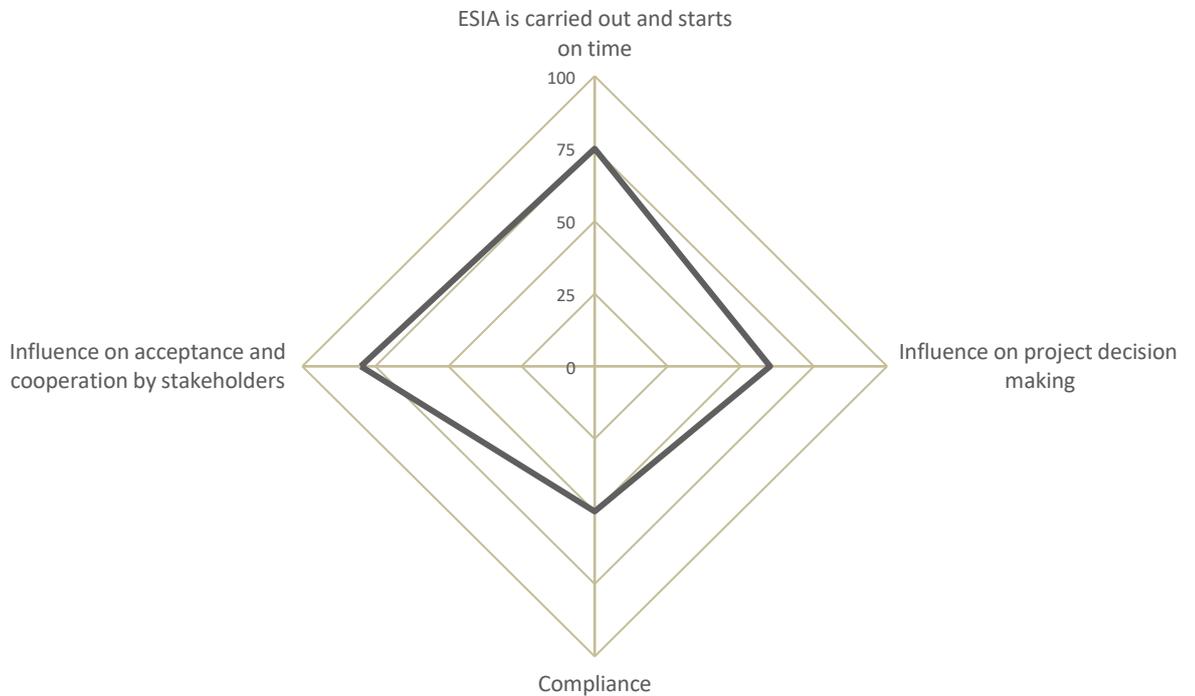


Figure 5. ESIA performance

Overall observations

QS score ESIA carried out on time: 25; DS score 75

QS score Influence on Decision making: 80; DS score 70

QS score Compliance: 50; DS score 50

QS score Influence on acceptance and cooperation by stakeholders: 80

Throughout the workshop there was a considerable amount of discussion on the lack of synchronization of the ESIA process with the project life cycle. Two scenarios are common: the first is when a project is progressed through to the final design and contractor tendering stage before an ESIA is undertaken. This is the norm for government projects. An ESIA undertaken so late in the project lifecycle adds little value in ensuring that all potential environmental and social impacts can be mitigated to an acceptable level. The second scenario occurs when the ESIA is undertaken too early in the project lifecycle i.e. when the project is still at the concept stage. With little detailed project information available, it is difficult to conduct a sufficiently detailed and scientific ESIA. This scenario is often a feature of donor-funded projects. Neither scenario is desirable; to add real value, the ESIA process should be synchronized with the project life cycle, with scoping being undertaken at the same time as the pre-feasibility study, and the ESIA occurring in parallel with the detailed design phase.

If the project is not too politically sensitive, the NEA does exercise its right to delay construction, pause project operations in the case of non-compliance, or withhold / withdraw environmental clearance for continued infringements and/or non-performance.

3.6 Context

Context

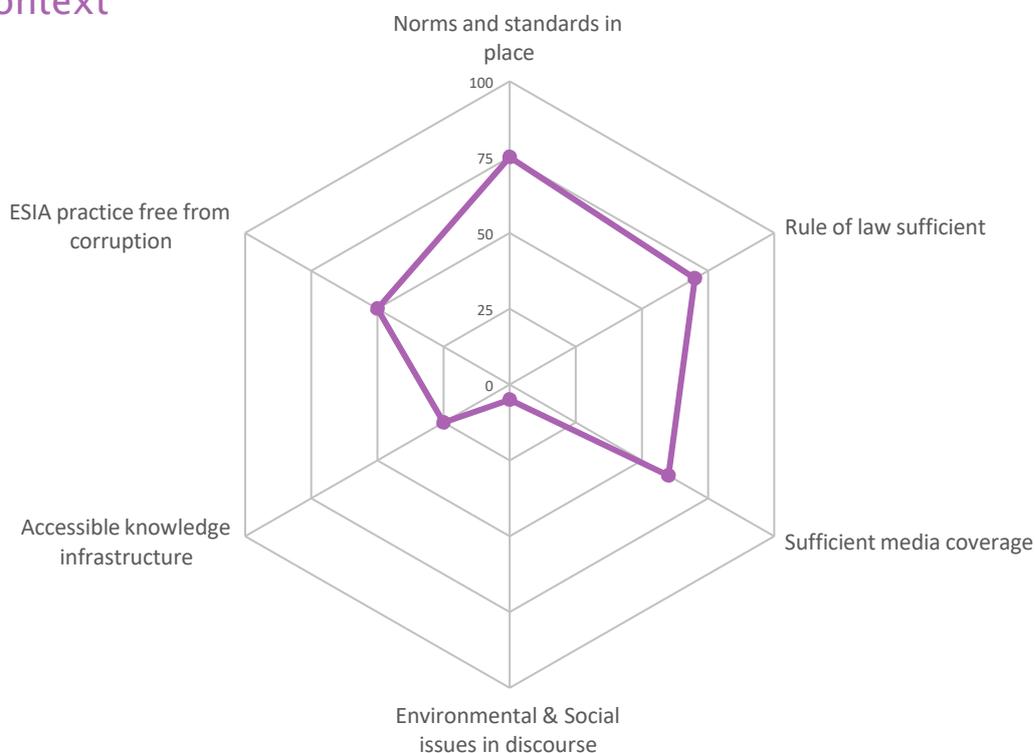


Figure 6. Context

Norms and standards

QS score: 75

Although not all topics are covered in national norms and standards, there are quite a few including: air quality, effluent, noise, vibration, and water quality. Some social norms and standards are lacking, but there are some governmental policies related to gender. These policies are not always adhered to.

Rule of law

QS score: 70; DS score: 70

Gambia currently has an independent judiciary. But it is difficult to access with regards to environmental justice. It can be expensive or you might not have the right to do so. The attorney general (AG) has to give consent to allow you to take recourse. But the AG is appointed by Government and tends to favour government in its judgements. There is little knowledge about the environment within the judiciary, and no body of case law has yet been developed in the country Also, sometimes it can take a long time to obtain legal recourse, up to a year.

Regulation 36 of the EIA Regulations, 2014 does allow for any person who may be aggrieved by any decision made by NEA, to appeal to the National Environmental Management Council within 30 working days of the decision being made.

Sufficient Media coverage

QS score: 60

Very few journalists have formal education, and almost none have knowledge of the ESIA process. There is some media coverage for certain large, high profile projects, but in the inland regions coverage is lacking.

Environmental and Social issues in discourse

QS score: 5

The ESY-map workshop took place a few weeks before the presidential elections, so there was much political discourse taking place. However, attention given to environmental and social issues is limited. Some party manifestos do cover these issues, but it is not often mentioned in the rallies, except in castigating other parties about being irresponsible with regards to the use (and abuse) of natural resources.

Accessible knowledge infrastructure

QS score: 25

As discussed above, access to information is lacking. There is no central database and it is dependent on individuals whether information is accessible.

ESIA practice free from corruption and political influence

QS score: 50

Politically sensitive projects can be subjected to pressure to accelerate the process or to provide approval without requiring stringent reporting. In general, however, the NEA has a reasonably strong position within the government of the Gambia.

4. Action planning

On the third day of the ESY-map workshop, the participants were requested to translate the identified strengths and weaknesses into action plans to improve the Gambian ESIA system. The timing was good, as the NEA is currently working on revising the National Environmental Management Act of 1994, as well as on its annual plan for 2022. The most notable results of the group work is presented here.

SRL	ACTIVITY	SUB-ACTIVITIES	RESPONSIBILITY	TIMEFRAME 2022				FUNDING SOURCE
				Q1	Q2	Q3	Q4	
1.	Awareness creation	<ul style="list-style-type: none"> TV programmes Radio Programmes Outreach 	NEA & Stakeholders					NEA
2.	Capacity Building	<ul style="list-style-type: none"> Training for Policy Makers, Line Departments, NGOs, CSOs, EIA-WG, Local Authorities Workshops for Policy Makers, Line Departments, NGOs, CSOs, EIA-WG, Local Authorities 	NEA & Stakeholders					NEA
3.	Review of required frameworks	<ul style="list-style-type: none"> EIA Regulations 2014 EIA Procedures 1999 EIA Guidelines 1999 	NEA & Stakeholders					NEA
4.	Strengthen of monitoring and auditing of existing projects		NEA & Stakeholders					NEA
5.	Formation of ESIA Practitioners Association	<ul style="list-style-type: none"> Meetings Formulation and registration of constitution 	NEA & Stakeholders					NEA

Participants were also asked to indicate how they planned to contribute to executing the action plan the coming time. Answers were collected through Mentimeter.

How will you contribute to the action plan the coming 6 months?



Annex 1: Attendance list


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ESY-MAP workshop programme guide

The Gambia, 23rd – 25th November 2021
Attendance register

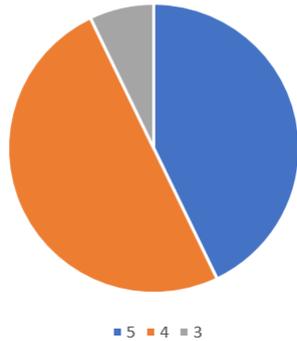
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27. Modou N. Sanneh	ANR	P. O	modou.n.sanneh@gmail.com	
28.				

Annex 2: Workshop Evaluation

The graphs present an overview of the scores given to 4 elements of the ESY-map workshop. Scores were possible between 1 (low) to 5 (high).

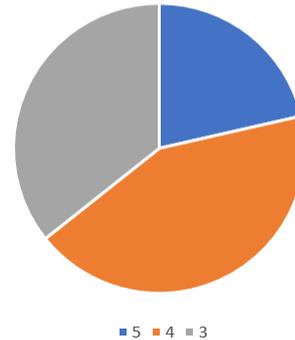
Graph 1

Appreciation of ESY-map tool



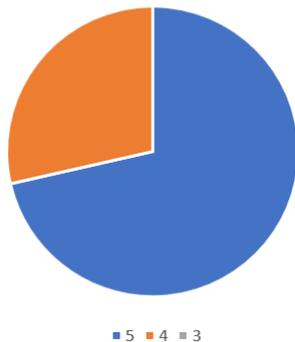
Graph 3

Appreciation of venue and organisation



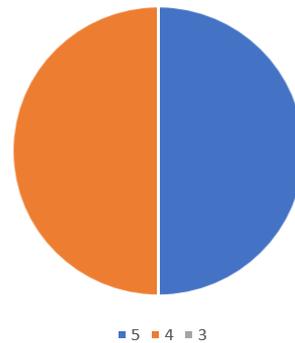
Graph 2

Appreciation of facilitators



Graph 4

Appreciation of interaction with participants



Some selected comments from the evaluation forms:

- “The ESY-map gave me grasp of what should be done in the Gambia.”
- “I learned to formulate action plans.”
- “frequent engagement to be more familiar with other institutions' functions is necessary.”
- “Environmental protection is key, and will enable us to live a sustainable future green climate.”
- “Regularly conduct ESY-map regularly... once per year.”