



OKACOM

*The Permanent Okavango River Basin Water Commission
Comissão Permanente das Águas da Bacia Hidrográfica do Rio Okavango*

Transboundary EA Guidelines

Development of the SEA of the
Cubango-Okavango River Basin

Final TEA Guidelines Report on the Consultancy to

Strategic Environmental Assessment (SEA) of the
Cubango-Okavango River Basin (CORB)

Final TEA Guidelines

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Executive Summary

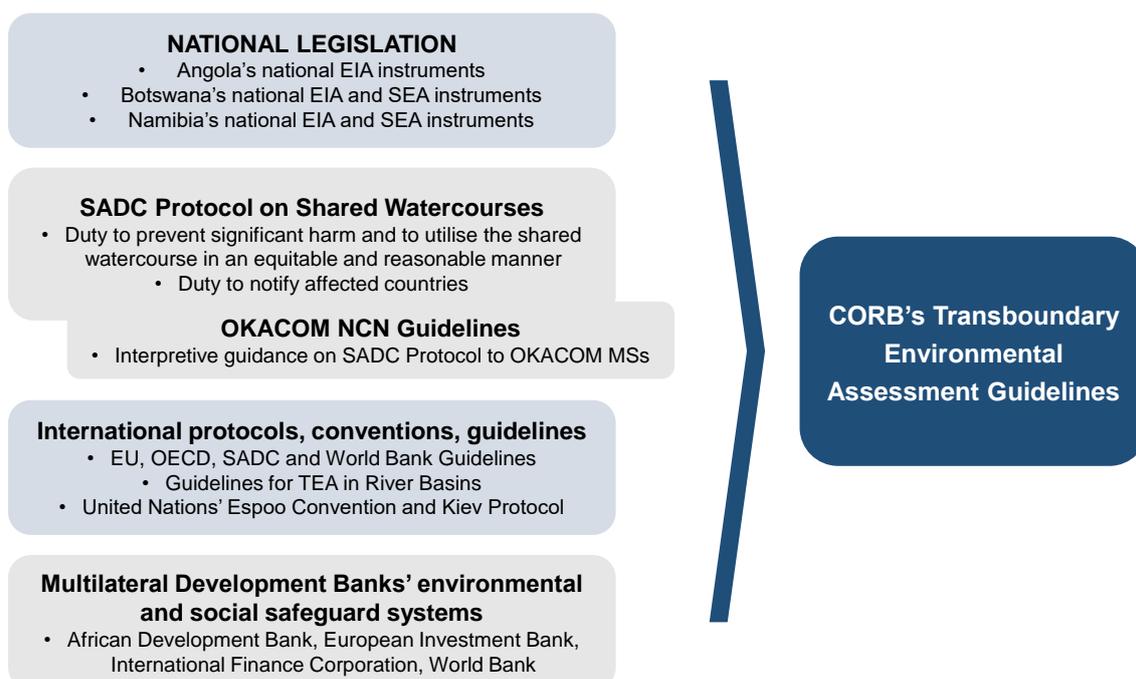
The Cubango-Okavango River Basin (CORB) covers an area of roughly 700,000 km², whose active basin is shared by Angola, Botswana, and Namibia.

The socioeconomic development of the basin is driven by several national and regional level plans, programmes, and policies, whose implementation, if not coordinated at the basin level, may generate significant transboundary impacts. Nonetheless, there is no formal guidance regarding communication and collaboration on Transboundary Environmental Assessment (TEA) in the CORB.

The CORB TEA Guidelines (TEAG), hereby presented, aim to provide interpretive guidance and assistance to the CORB countries when assessing transboundary impacts and jointly approaching and implementing the SADC Protocol, the provisions of OKACOM Agreement and general international law. The TEAG shall further contribute to unify processes at a strategic level and inform decision-making in the CORB.

Background

The TEAG shall be an overarching instrument. Hence, they build upon legal national and international frameworks, including the SADC Protocol, OKACOM NCN Guidelines, international protocols, and environmental and social safeguard systems of Development Banks.



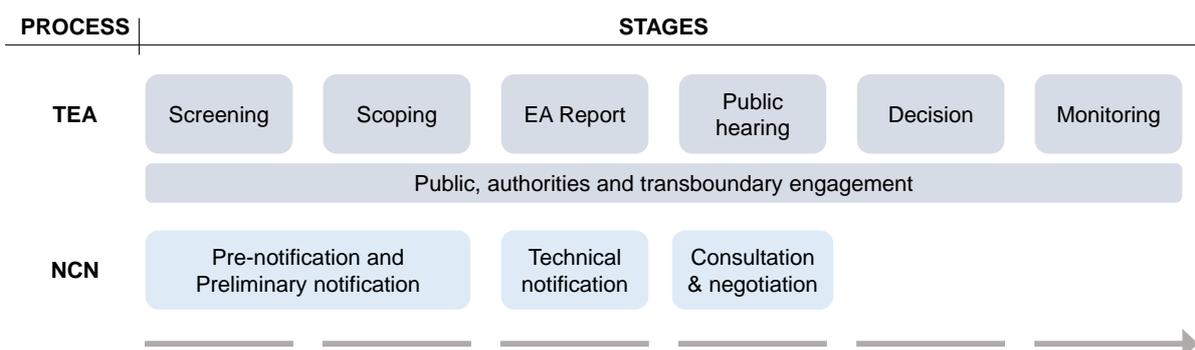
The legislation in force in the CORB countries recognises environmental assessments, despite lacking provisions for transboundary communication. Botswana and Namibia’s legislation define both Environmental Impact Assessments (EIA) and Strategic Environmental Assessments (SEA) procedures, however, Angolan’s only provides for EIA. In the absence of binding national legal provisions, CORB countries may find guidance and recommendations in these Guidelines quite useful.

The SADC Protocol on Shared Watercourses is binding to the three CORB countries. It establishes the principle of equitable and reasonable utilisation of the watercourse and duty to prevent significant transboundary harm within the SADC region. The Protocol determines that whenever a planned measure may have a significant adverse effect upon another Watercourse State, the origin country has the duty to notify all potentially affected States. OKACOM’s Notification, Consultation and Negotiation (NCN) Guidelines provide interpretive guidance to OKACOM countries when implementing the SADC Protocol, steering riparian countries throughout the whole NCN process.

The CORB’s TEAG follow the recommendations and guidance of recognised international protocols, conventions and guidelines, notably, the United Nations’ Espoo Convention and Kiev Protocol, as well as guidelines from the World Bank and SADC. Likewise, these guidelines build upon the environmental and social standards and safeguard policies imposed by Multilateral Development Banks, given that several projects and programmes developed within CORB are financed by these institutions.

Transboundary Environmental Assessment Guidelines

The CORB’s TEAG propose a six-stage process to develop a TEA: screening, scoping, EA report, public hearing, decision, and monitoring. Public, stakeholders, and authorities should be consulted and engaged throughout the whole TEA process. Likewise, transboundary communication should be present at all stages of the TEA.



The TEAG intend to coordinate and unify the TEA and NCN processes, enhancing these functionally distinct consultation processes, which overlap in time. Hence, TEAG fully incorporate OKACOM NCN Guidelines – which provide the NCN terms applicable to CORB countries – aiming to complement this instrument.

Firstly, the project or plan in question is screened to determine the likelihood of transboundary significant impacts, and whether it should be subject to EA. If the screening reveals the potential for transboundary impacts, the TEA process is initiated. From this stage onwards, consultation and engagement with stakeholders, authorities and affected countries should be promoted, at all times. Concurrently, and as part of the NCN process, the origin country should pre-notify all potential affected countries.

The scoping includes the collection of relevant baseline information, public participation (part of the TEA process) and preliminary notification of affected CORB countries (legally required NCN stage, under the duty to notify).

After the scoping, the EA Report should be developed. During this stage, the environmental and socioeconomic impacts, mitigation measures, and monitoring actions are assessed, and the origin country sends the technical notification to affected countries (legally required NCN stage, under the duty to notify).

After the completion of the draft EA report, public hearings should be **held** to collect suggestions and concerns that must be incorporated in the final EA report. Concurrently, shall the affected countries believe the planned measure breaches the duty to prevent transboundary harm or the principle of equitable and reasonable utilisation of the watercourse, consultations and negotiations, as part of the NCN process, should be initiated, aiming to achieve an amicable settlement on additional measures that can avoid, minimise or mitigate the transboundary impacts of the planned measure. If the countries are unable to reach consensus, the planned measure may advance without agreement, as the NCN process is consultative in nature.

The completion of the EA will inform decision-makers on whether to authorise the implementation of the proposed measure. The terms of implementation, its projected impacts, the proposed mitigation measures, the concerns, opinions and suggestions collected during consultation moments, and the outcome of the NCN process are submitted to consideration and will advise the final decision.

Finally, a monitoring plan should be enforced to ensure compliance with legal standards and regulations, monitor the performance and effects of the planned measure, and implement corrective actions for potentially unforeseen adverse effects.

Recommendations

The TEAG provide recommendations which should be applied for an effective application. Furthermore, the TEAG provide templates (notification, reply to notification, and request of notification; and for evaluation of scoping, SEA, and EIA reports) to support CORB countries throughout TEA processes.

Recommendations for Notification

- The origin MS should ensure cooperation with affected States, providing all available and appropriate documents to enable a meaningful NCN process

Recommendations for Consultation and Negotiation

- Consultations and negotiations should always be conducted in good faith
- Even though the NCN process has a consultative nature, CORB States should make every good faith effort to resolve disputes amicably

Recommendations for the origin Member State

- Consultation and exchange of information with affected States should be continuously promoted throughout the entire TEA, and should not be restricted to the formal and required notification procedures

Recommendations for the affected Member State

- Consider external evaluations of the received TEA information to avoid bias

Recommendations for OKACOM

- Extend its mandate and strengthen EA governance in the CORB by assuming the role of external evaluator, i.e., commission independent reviews of EAs for large projects and plans within CORB countries

Strategic Environmental Assessment (SEA) of the Cubango-Okavango River Basin (CORB)

FINAL TRANSBOUNDARY EA GUIDELINES

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LIST OF ACRONYMS

COP - Conference of the Parties

CORB - Cubango-Okavango River Basin

EIA - Environmental Impact Assessment

LVBC - Lake Victoria Basin Commission

MS - Member State

MSIOA - Multi-Sector Investment Opportunities Analysis

NCN - Notification, Consultation and Negotiation

OKACOM - Permanent Okavango River Basin Water Commission

OKASEC - OKACOM Secretariat

OUV - Outstanding Universal Value

PPP – Plan, Programme and Policy

SEA - Strategic Environmental Assessment

TEA - Transboundary Environmental Assessment

TEAG - Transboundary Environmental Assessment Guidelines

ToR - Terms of Reference

UN - United Nations

WHS - World Heritage Site

GLOSSARY

Affected / notified Member State	OKACOM Member State who might be affected by a planned measure being developed by the origin MS. According to the duty to notify, established in SADC Protocol and customary international law, the affected MS shall be notified on the planned intentions of the origin MS.
Origin / notifying Member State	OKACOM Member State who is planning a measure to be implemented within TEA area and likely to cause significant effects. The origin MS shall notify the affected MSs on the planned measure.
Environmental Assessment	An EA may refer to various processes for assessing the possible impacts of planned measures. Usually, EA include Environmental Impact Assessments for the assessment of individual planned activities or projects, and Strategic Environmental Assessment for the assessment of entire plans, policies, or programmes. EAs may be required by law.
Environmental Assessment developer	The external entity, usually a private company, responsible for the development of the EA of the planned measures, including the elaboration of the required reports.
Environmental Impact Assessment	Environmental Impact Assessments are a legal requirement to identify, predict and assess possible impacts of planned measures on the environment. EIAs propose mitigation measures to avoid or mitigate the adverse effects arising from the implementation of the planned measure and recommend monitoring measures to following-up potential impacts.
Outstanding Universal Value	A heritage whose cultural or natural significance is so exceptional that transcends national boundaries. Thus, the permanent protection of this heritage is of utmost importance to the international community and should be preserved for future generations.

Planned measures	Any activity, project, plan, policy, or programme being planned by a proponent in an OKACOM MS.
Proponent	Person or body aiming to develop a planned measure in the origin Member State.
Strategic Environmental Assessment	Strategic Environmental Assessments are not always required by law. SEAs allow for consideration of environmental issues in the preparation and strategic planning of plans and programmes prior to their final adoption, being able to influence decision-making and promoting sustainable development.
Significant adverse effect	A significant adverse effect involves risk of real impairment of the shared watercourse, with detrimental impacts upon ecosystem services and / or upon the socio-economic benefits from use of the watercourse. Significant adverse effects may involve significant impacts on the water quality, ecosystem health, biodiversity, flow regime and the sediment transport. Any potential impairment of vital human needs is considered significant.
TEA area	The TEA area comprises the area within which a planned measure is considered to have potential transboundary effects. Hence, any planned measure to be implemented within the TEA area, and likely to cause an adverse environmental effect, should be subject to TEA.

1. Introduction

Several plans, programmes, and policies (PPPs), developed by different structures of the CORB's Member States (MSs), drive the basin's socioeconomic development. Riparian states have adopted comprehensive frameworks of national environmental legislation and recognise the need for undertaking environmental assessments, at both the strategic and project levels. Nonetheless, formal guidance regarding communication and collaboration on Transboundary Environmental Assessment (TEA), in the context of the 1994 OKACOM Agreement, is still needed.

The SADC Revised Protocol on Shared Watercourses, ratified by the three CORB countries, established that MSs with a shared watercourse are obliged to the principle of equitable and reasonable utilisation of the watercourse and must prevent significant transboundary harm. The Protocol further determine that whenever an intended project or PPP may have a significant adverse effect upon another Watercourse State, the origin country has the duty to notify all potentially affected MSs. OKACOM's Notification, Consultation and Negotiation (NCN) Guidelines provide interpretive guidance to OKACOM MSs when implementing the SADC Protocol, steering riparian countries throughout NCN processes.

TEAs are crucial instruments, not only to inform decision-makers on the approval of potential projects, activities, plans, or programmes, but to provide technical information necessary for meaningful NCN processes. The development of TEAs would provide the basis for MSs to assess the implications and impacts of a given planned measure, and to decide upon whether the project, plan or programme is consistent with the principle of equitable and reasonable utilisation of the shared watercourse and the duty to prevent significant transboundary harm. Indeed, OKACOM NCN Guidelines recognise environmental assessment as the basis for any NCN process.

This report provides the **Final Transboundary Environmental Assessment (EA) Guidelines (TEAG) for the Cubango-Okavango River Basin (CORB)**, developed in the context of the CORB Strategic Environmental Assessment (SEA). CORB's TEAG are not intended to be a binding instrument to OKACOM MSs. Instead, they aim to provide interpretive guidance and assistance to the riparian countries when assessing transboundary impacts and when jointly approaching and implementing the SADC Protocol, the provisions of the OKACOM Agreement and general international water law. Aiming to be an overarching instrument, CORB TEAG build upon legal national

frameworks and the OKACOM NCN Guidelines. CORB TEAG shall thus contribute to coordinate and unify processes at a strategic level, through its integration into high-level economic development policy decision-making processes within OKACOM MSs.

This document is organised as follows:

- Chapter 2 presents the background and context of TEA, by establishing the TEA area and reviewing important instruments.
- Chapter 3 provides the Guidelines for Transboundary EA in the CORB, detailing each step of the TEA process.
- Finally, chapter 4 leaves recommendations to ensure an effective application of the Transboundary EA Guidelines.

2. Background

This section provides the context for the Transboundary Environmental Assessment (SEA and EIA) Guidelines. The following subsections will:

- Define the physical scope of application of the CORB TEAG.
- Review each OKACOM Member State's legal framework.
- Review the primary instruments related to notification and environmental assessment in the OKACOM context.
- Compile and review relevant directives, which result from international protocols, conventions, and guidelines on TEA.
- Literature review of TEAs developed in river basins, with a particular focus on those developed in the SADC region and African Continent.

2.1. Physical scope of application of the CORB TEAG

The TEAG for the CORB shall be applicable to all areas where an impact to another CORB State - i.e., a transboundary impact - may occur. This potential impact area will, hereinafter, be designated as TEA area.

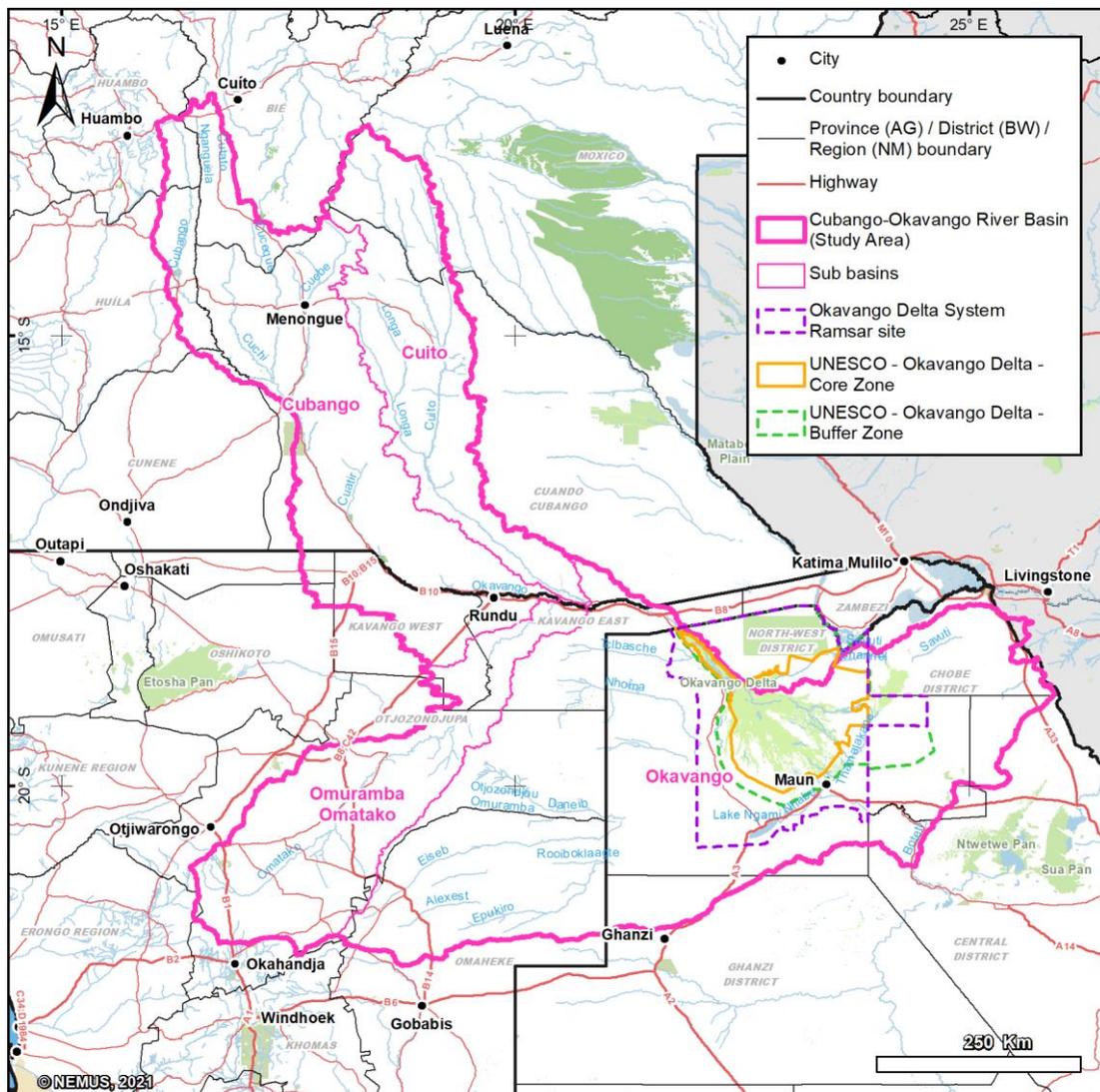
The CORB covers an area of approximately 700,000 km², which is shared by Angola, Namibia, Botswana, and Zimbabwe. The TEA area, nonetheless, will consist of a stricter area: the CORB area which was subject to SEA, i.e., the active basin, delimited using the HydroSHEDS reference watersheds (Lehner, Verdin, & Jarvis, 2006), and consistent with the basin and sub-basins' boundaries used in the CORB Multi-Sector Investment Opportunities Analysis [MSIOA, (World Bank, 2019)].

Hence, the TEA area corresponds to the permanent surface water flows and wetlands, comprising **CORB's four (4) sub-basins** in Angola, Botswana and Namibia: Cubango; Cuito; Okavango; and Omuramba Omatako. The active basin covers, by national territories, the areas portrayed in **Figure 1**, and outlined in **Table 1**. Notwithstanding, depending on the typology of activities and projects being subject to EIA / plans, programmes, and policies subject to SEA, the TEA area may be extended beyond the active basin, to include the projects' assessment areas, as established in the applicable national EA legislation.

Table 1 – CORB TEA area by country

Country	Sub-basins	TEA area (km ²)	CORB total area (km ²)
Angola	Cubango, Cuito, Okavango and Omuramba Omatako	162 410	151 406
Botswana	Okavango	145 964	345 704
Namibia	Cubango, Okavango and Omuramba Omatako	177 582	168 274
Zimbabwe	Okavango	-	25 670
Total area	-	485 956	691 054

Source: TEA area follows (Lehner, Verdin, & Jarvis, 2006); Total basin area is described in (FAO, 2014).



Source: CORB TEA area follows HydroSHEDS (Lehner, Verdin, & Jarvis, 2006); (World Bank, 2019).

Figure 1 – TEA area of CORB TEAG

As observable in Figure 1, TEA area is not limited to the shared watercourse, rather, it covers a larger area, i.e., the four active sub-basins (see Figure 1). The rationale behind this extension of the TEA area relies on the fact that, besides activities, plans, policies or programmes located in the watercourse itself - such as hydropower development projects, which will directly impact the downstream - projects located in the surrounding areas might as well result in impacts in the watercourse, the ecosystem services, or the socioeconomic benefits derived from the river, or vice-versa, and, thus, must be included in the TEA area.

The administrative units (level 1) covered by CORB TEA area are outlined in **Table 2**.

Table 2 – CORB TEA area by country and administrative divisions (level 1)

Country	Province / District / Region	TEA area (km ²)	TEA area (%)
Angola	Bié	12 255	2.52%
	Cuando Cubango	122 429	25.19%
	Cunene	827	0.17%
	Huambo	3 612	0.74%
	Huíla	8 617	1.77%
	Moxico	14 670	3.02%
Botswana	Central	10 661	2.19%
	Chobe	18 684	3.84%
	Ghanzi	9 633	1.98%
	North-West / Ngamiland	106 986	22.02%
Namibia	Erongo Region	165	0.03%
	Kavango East	25 853	5.32%
	Kavango West	17 624	3.63%
	Khomas	50	0.01%
	Ohangwena	1 650	0.34%
	Omaheke	48 520	9.98%
	Oshikoto	815	0.17%
	Otjozondjupa	82 905	17.06%

Note: Administrative units (level 1) in Angola are designated as Provinces; in Botswana as Districts; and in Namibia as Regions.

2.2. National EA procedures at the CORB

The legislative and regulatory instruments of the three CORB countries currently in force recognise environmental assessments. Angola’s national legislation only provides for EIA while, on the other hand, Botswana and Namibia’s national frameworks provide for both EIA and SEA procedures. Botswana is the only CORB MSs specifically providing for transboundary consultation.

By nature, these national legal EA requirements are binding, while the CORB TEAG embody a guiding instrument. In this sense, any proponent who intends to develop a particular project or PPP must primarily comply with the respective national legislation. In the absence of legal provisions, OKACOM MSs may find guidance and recommendations in these CORB TEAG. In particular, any Angolan proponent intending to develop a PPP is advised to follow the guidance provided in these TEAG.

The following Table outlines CORB MSs’ legal frameworks for EA, focusing on the respective approaches to TEA or, when these are not specifically established, in the SEA and EIA principles and procedures that can be extrapolated to TEA.

Table 3 – Legislative framework for EA in CORB countries

Country	Legislative framework
<p>Angola</p>	<ul style="list-style-type: none"> • The legislation in force covers only EIA and the scope of its application, defined by law. It does not include the elaboration of policies, plans, or programmes, namely those referring to land use and land use, such as river basin plans. • However, the defined list of activities and projects subject to EIA includes activities related to several areas covered by the CORB, such as areas along watercourses or used as a source of drinking water, wetlands in an area greater than 1 ha, conservation and protection areas and their buffer areas, as well as ecosystems with special protection status under national and international legislation – Presidential Decree No. 117/20, of 22 April, General Regulation for Environmental Impact Assessment and Environmental Licensing Procedure, which repeals Decree No. 51/04 of 23 July on the EIA and Decree No. 59/07, of 13 July on Environmental Licensing (República de Angola, 2020). • Environmental legislation does not refer to transboundary impacts, but Angola has often collaborated on international

Country	Legislative framework
	<p>projects developed in the CORB area (Walmsley & Patel, 2011).</p>
<p>Botswana</p>	<ul style="list-style-type: none"> • EIA and SEA are defined in the Environmental Assessment Act, 2011, of 30 June (Republic of Botswana, 2011). In compliance with subsection 1 of the diploma, regulations are published regarding: i) activities that have the potential to cause significant impacts on the environment, or that are located in environmentally vulnerable places, and are therefore subject to an environmental impact statement; ii) the procedure for assessing whether the activities described in i) are likely to have a significant impact on the environment; and iii) the criteria that should be used to determine the potential effects that the proposed activity may have. • The Diploma clearly defines that the elaboration of a policy, program, legislation, or plan, must be accompanied by a properly approved SEA, which must include the description of the respective policy, program, legislation, or plan. • Whenever the competent authority determines that the proposed activity may have an adverse impact on the environment, it should request the preparation of an EIA or SEA, as applicable. The definition of a monitoring programme after the implementation of the proposed activity / plan is also included in the diploma. The preparation of an assessment report and environmental audits may also be required by the competent authority. • Section 68 specifies that, if a given activity has the potential to cause transboundary impacts, the Ministry responsible for foreign affairs should consult the target country (ies).
<p>Namibia</p>	<ul style="list-style-type: none"> • In force since December 21, 2007, the Environmental Management Act (Republic of Namibia, 2007) establishes the procedure for the assessment and control of activities that may result in significant effects on the environment. The diploma lists the activities that require environmental certification, which include activities related to soil use and transformation, water use, extraction of resources, agricultural and industrial

Country	Legislative framework
	<p>processes, waste and effluents, recreation, and leisure, among others.</p> <ul style="list-style-type: none"> As stipulated in this document, Namibia has, since 2012, Environmental Impact Assessment Regulations, regulatory procedures for the EIA. The provisions included in this instrument comprise the definition of guidelines for the preparation of the Inception Report / scope of the evaluation; the structure of the evaluation report itself; defining the responsibilities of the competent authority; the need to carry out an environmental assessment and to carry out the public consultation process. The specific processes for the preparation of an SEA are not included in these documents; however, Namibia published in 2008, in accordance with Part X of the Environmental Management Act, Procedures and guidelines for SEA and Environmental Management Plans (EMP) – published by the Government / Resolution on Environmental Impact Assessment of Namibia.

2.3. Notification and environmental assessment in the OKACOM context

The OKACOM Agreement, which established OKACOM (OKACOM, 1994), does not provide guidance for notification and environmental assessments within OKACOM MSs. Therefore, MSs follow, primarily, their own national legal frameworks and the SADC Protocol on Shared Watercourses (SADC, 2000). Recently, OKACOM provided Notification, Consultation and Negotiation (NCN) Guidelines applicable to OKACOM MSs (OKACOM, 2018).

2.3.1. SADC Revised Protocol on Shared Watercourses

The SADC Revised Protocol on Shared Watercourses (henceforth, SADC Protocol) aims to foster cooperation between countries who share water resources, as means to attain a co-ordinated management, protection, and utilisation of the shared watercourses. Article 3 of the Protocol establishes the obligation to utilise the shared watercourse in an equitable and reasonable manner and the duty to prevent significant harm to other Watercourse States in the SADC region.

Article 4 further established the duty to notify affected countries on planned measures with a significant transboundary impact, i.e., when a country plans to develop a planned measure (a project or PPP) which may have a significant adverse effect upon other Watercourse State, the party of origin must notify all potentially affected States. When appropriate, notifications may be followed by consultations and negotiations, aiming to reach consensus on an equitable resolution. In this context, the Protocol determines the notification process which both notifying and notified States should follow.

The SADC Revised Protocol on Shared Watercourses was ratified by the three CORB countries in 2000.

2.3.2. OKACOM Notification, Consultation and Negotiation Guidelines

OKACOM NCN Guidelines aims to guide MSs through NCN processes when implementing the SADC Protocol, the provisions of the OKACOM Agreement and general international water law, essentially, the obligation to prevent significant harm to other Watercourse States. OKACOM NCN Guidelines account for the legal and institutional frameworks of the three MSs and was developed in a participatory manner, with national and multiparty workshops, to facilitate discussion and agreement on the structure and content of the final NCN Guidelines.

The Guidelines determine the stages and respective timelines of each NCN phase. The process starts with the notification, which embodies three stages: **i)** pre-notification; **ii)** preliminary notification; and **iii)** technical notification. If a notified MS expresses concern regarding the adverse impacts of the planned measure, good faith consultations and negotiations should take place, aiming to achieve an agreement on an equitable solution.

The CORB TEAG incorporate and complement the NCN Guidelines, aiming to assist MSs throughout the entire TEA process. The development of TEAs will provide technical information necessary for MSs to decide upon the implications and impacts of a given planned measure, and whether the project, plan or programme is consistent with the principle of equitable and reasonable utilisation of the shared watercourse and the duty to prevent significant transboundary harm.

Even though the SADC Protocol and NCN Guidelines focus specifically on Environmental Impact Assessments and the implementation of activities and projects, these TEAG extend NCN guidelines to Strategic Environmental Assessments and the implementation of plans, policies, and programmes.

2.4. International protocols, conventions and guidelines on Notification and Transboundary EA

At an international level, two instruments are widely accepted as best practice guiding documents for notification and TEA: Espoo Convention and Kiev Protocol.

2.4.1. Espoo Convention

The **Espoo Convention** (adopted in 1991 and in force since 1997) – formally known as Convention on Environmental Impact Assessment in a Transboundary Context (United Nations, 1991) -, defines guidelines for action in Transboundary EIA processes, namely the obligations of the signatories regarding the EIA of certain activities; and the responsibilities of states to notify and consult their “neighbours” in the process of planning large projects, whenever it is understood that harmful environmental impacts may occur across borders.

None of the CORB countries has ratified the Espoo Convention.

2.4.2. Kiev Protocol

The **Kiev Protocol** (2003) – formally known as Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (United Nations, 2003) – in force since 2010, extends the Espoo Convention, by ensuring that the Parties integrate Environmental Assessment in the preparation of policies, plans and programmes, from the early stages of their development.

None of the CORB countries has ratified the Kiev Protocol.

2.4.3. Other international guidelines

Apart from these two United Nations (UN) Treaties, six (6) international guidelines are particularly relevant for the CORB context:

- Strategic Environmental Assessment in the World Bank: Learning from Recent Experience and Challenges (World Bank, 2012).
- Guidelines for Strengthening River Basin Organisations: Environmental Management (SADC, 2010).

- Transboundary Environmental Assessment Guidelines for Shared Ecosystems in East Africa (The East African Community, 2005).
- Applying Strategic Environmental Assessment: Good Practice Guidance for Development Co-operation (OECD, 2006).
- Directive 2001/42 / EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (European Parliament, Council of the European Union, 2001).
- Strategic Environmental Assessment in Policy and Sector Reform (World Bank; University of Gothenburg; Swedish University of Agricultural Sciences; Netherlands Commission for Environmental Assessment, 2011).

Table 4 outlines the main recommendations offered in each of these international instruments.

Table 4 – Main recommendations of international guidelines relevant to the CORB

Instrument	Main recommendations relevant to the CORB
<p>Strategic Environmental Assessment in the World Bank: Learning from Recent Experience and Challenges</p>	<ul style="list-style-type: none"> • Although not centred in Transboundary EA, this document provides important guidelines for the CORB, emphasising four critical factors for a successful SEA: i) ensure it influences decision and policy making; ii) create opportunities for multistakeholder dialogue and public participation; iii) guarantee country ownership, in particular, government ownership of the SEA, which may be achieved through SEA legislation; and iv) appropriate timing, especially in impact-centred SEA, as the SEA should be developed when plans and programmes are still being prepared, in order to allow the SEA to influence decision making.
<p>Guidelines for Strengthening River Basin Organisations: Environmental Management</p>	<ul style="list-style-type: none"> • Provides guidelines and best practices for transboundary integrated environmental management of river basins. The document recommends that river basin organisations should focus on three strategic interventions: i) develop an environmental management policy to prevent misunderstandings between MSs; ii) ensure the

Instrument	Main recommendations relevant to the CORB
	<p>existence of an environmental information management system, to safeguard coordinated actions; and iii) develop an environmental management programme, to enable the integration of all issues of concern at a basin-level perspective.</p>
<p>Transboundary Environmental Assessment Guidelines for Shared Ecosystems in East Africa</p>	<ul style="list-style-type: none"> Guidelines with procedures for Transboundary EA in East Africa. Establishes the Transboundary EA process, composed by five stages: i) screening and scoping; ii) environment report; iii) public hearing; iv) decision making; and v) monitoring and auditing. Furthermore, the guidelines define which policies, projects and activities shall be subject to EA; the criteria to identify a Transboundary environmental impact; the impact area; and provides suggestions on how to finance a Transboundary EA process.
<p>Applying Strategic Environmental Assessment: Good Practice Guidance for Development Co-operation</p>	<ul style="list-style-type: none"> Good practice guidelines for SEA procedures for development policies, plans and programmes, in the context of international aid and co-operation. The document draws a four-step approach to guide a SEA process: i) establishing the context of the SEA, which includes the screening stage; ii) implementing the SEA, which comprises, inter alia, the scoping, collection of baseline data and identification of alternatives; iii) decision-making; and iv) monitoring and evaluation. The document assesses the case of trans-national plans or programmes. In such cases, a SEA is recommended as it provides for the assessment of all potential environmental and socio-economic impacts, including cumulative and transboundary impacts and externalities, as well as the identification of mitigation measures for the harmful impacts. Transboundary SEA should include the assessment of every transboundary effect, transboundary notification and cooperation, and transboundary public engagement.

Instrument	Main recommendations relevant to the CORB
<p>Directive 2001/42 / EC</p>	<ul style="list-style-type: none"> Provides guidelines on the assessment of the effects of plans and programmes on the environment, and is applicable to European Union MS. Nonetheless, the directive contains guidelines and good practices useful for the application of a SEA process in every world context. The document established six key steps for a SEA procedure: i) scoping, where the potential significant harmful environmental effects of a plan or programme are assessed; ii) environmental report, where the potential significant effects of the plan or programme, as well as its alternatives, are examined; iii) consultations with authorities and public; iv) transboundary consultation, when the plan or programme is likely to significantly impact other MS; v) decision-making, on whether the plan or programme should be implemented and in which conditions; and vi) monitoring, of the significant environmental effects.
<p>Strategic Environmental Assessment in Policy and Sector Reform</p>	<ul style="list-style-type: none"> Provides guidance for applying SEA in sector reform. An effective SEA should follow three stages: i) preparatory work, which establishes the context of the SEA, namely the goals, issues to be addressed and the scale of the process; ii) SEA implementation, where stakeholder engagement is encouraged, and which includes a situation analysis and priority setting, institutional, capacity, and political economy assessment, and recommendations; and iii) environmental and social mainstreaming beyond SEA, which encompasses monitoring interventions.

Several projects and programmes developed within CORB are financed by Multilateral Development Banks. Thus, they must comply with different environmental and social standards and safeguard policies imposed by the financier. The TEAG considers the essential requirements and recommendations of those safeguard systems relevant for the CORB. The safeguard systems of the major Multilateral Development Banks financing projects at the CORB are the following:

- Revisions to and clarifications of OP 4.01, Environmental Assessment, from the World Bank (World Bank, 2013).
- International Finance Corporation’s Sustainability Framework, consisting of Sustainability Policy and Performance Standards (IFC, 2012a; IFC, 2012b).
- Statement of Environmental and Social Principles and Standards and Environmental and Social Handbook (Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts) from the European Investment Bank (EIB, 2009; EIB, 2013).
- African Development Bank’s Integrated Safeguards System: Operational Safeguard 1 – Environmental and Social Assessment (AfDB, 2016).

Overall, these instruments require borrowers to perform an EA for all potential environmental and social impacts of the projects being financed by the Banks, with special consideration for the following impacts: **(i)** biodiversity, ecosystem services, and natural resource management; **(ii)** climate change; **(iii)** health and safety; **(iv)** vulnerability; **(v)** human rights, particularly rights of indigenous people; **(vi)** gender; **(vii)** labour and working conditions; and **(viii)** resource efficiency.

Table 5 presents specificities imposed by each of these instruments.

Table 5 – Specificities of the environmental and social safeguard systems relevant to the CORB

Instrument	Specificities
<p>Revisions to and clarifications of OP 4.01, Environmental Assessment - World Bank</p>	<ul style="list-style-type: none"> • Requires an EA for Bank financing projects, which should account for the natural environment, human health and safety, social aspects, and transboundary and global environmental aspects.

Instrument	Specificities
<p>Sustainability Framework - International Finance Corporation</p>	<ul style="list-style-type: none"> The borrower must assess all environmental and social risks, impacts, and opportunities of the project, with a particular attention to labour and working conditions; resource efficiency and pollution prevention; community health, safety, and security; land acquisition and involuntary resettlement; biodiversity conservation and sustainable management of living natural resources; indigenous people; and cultural heritage.
<p>Statement of Environmental and Social Principles and Standards and Environmental and Social Handbook - European Investment Bank</p>	<ul style="list-style-type: none"> Aims to guarantee that all EIB financed projects comply with the environmental and social requirements of the Bank, with particular consideration for climate change, biodiversity and ecosystems. Borrowers must comply with national legal frameworks, the Universal Declaration on Human Rights, EU environmental and social <i>acquis</i>, the Charter on Fundamental Rights of the European Union, international conventions and agreements, European Principles for the Environment, and UN Guiding Principles on Business and Human Rights.
<p>Integrated Safeguards System: Operational Safeguard 1 - African Development Bank</p>	<ul style="list-style-type: none"> Defines the requirements for borrowers to identify, assess and manage potential environmental and social impacts of Bank lending operations. Borrowers are responsible for conducting an environmental and social assessment as well as a monitoring plan for potential impacts. All direct, indirect, and cumulative impacts should be considered, including those related to biodiversity, ecosystem services and natural resource management, climate change, vulnerable groups, health, gender, human rights, labour and working conditions, and cultural heritage.

2.4.4. Transboundary EA in river basins

For EAs specifically focused on collaborative management of shared water resources, as it is the case for the CORB, the following examples of TEA in the SADC region should be emphasised:

- Guidelines for Transboundary EA in the Orange-Senqu River Basin – a river basin shared by Botswana, Lesotho, Namibia, and South Africa.
- Transboundary Mara River Basin SEA – the basin is shared by Kenya and Tanzania.
- Shire River Basin Management Programme - Shire Basin is in Malawi, and it forms part of the larger Zambezi Basin, of which Angola, Botswana, Mozambique, Namibia, Tanzania, Zambia, and Zimbabwe are co-riparian countries.

Outside the African continent, to highlight the Transboundary SEA on the Mekong River Basin (ICEM, 2010), which is shared by six countries: China, Myanmar, Thailand, Laos PDR, Cambodia, and Vietnam. Although in a different geographical context, it is an important case study, due to the basin’s size and the demanding coordination between these countries for the success of the basin’s SEA development. This Transboundary SEA adopted the guidelines of the Espoo Convention.

The following table briefly summarizes the guidelines and methodologies used in TEAs performed in SADC countries.

Table 6 – Guidelines used in Transboundary EA of river basins within SADC

River basin	Main aspects of SEA methodology
<p style="text-align: center;">Orange-Senqu River</p>	<ul style="list-style-type: none"> • The Orange-Senqu River Basin Commission developed guidelines for Transboundary EA (ORASECOM, 2013) which inherited important aspects from two internationally recognised instruments: the Espoo Convention and the Kiev Protocol. The guidelines emphasise three essential steps to take during Transboundary EA development: transboundary notification, environmental assessment, and consultation. • The specific guidelines for the notification procedure are based on the ORASECOM Agreement, the SADC Revised Protocol on Shared Watercourses, and the UN-Convention on the Non-navigational Uses of International Watercourses.

River basin	Main aspects of SEA methodology
<p>Mara River</p>	<ul style="list-style-type: none"> • The methodology employed in the Transboundary Mara River Basin SEA was essentially based on the guidelines of the East African Community (The East African Community, 2005), the principles defined in the Guidelines for Transboundary Environmental Assessment adopted by the Lake Victoria Basin Commission (LVBC)¹, the OECD Guidelines for SEA (OECD, 2006) and the Guidelines for Strategic Environmental Assessment in Sectoral Policies and Reforms (World Bank; University of Gothenburg; Swedish University of Agricultural Sciences; Netherlands Commission for Environmental Assessment, 2011). Although these guidelines do not mention the UN Treaties, the suggested methodology involves the same key points: situation and institutional analysis, stakeholder engagement, development of action and monitoring programmes (which aim to ensure a better management and reduced conflicts). • The methodology was further based on country-specific references: methodology used in the SEA of Kenya's Forest Law (pilot project used by the World Bank for institutional SEA development), South Africa's SEA experience of hydrographic regions in water stress, and references to SEA stipulated in Tanzania and Kenya legislation, including defined guidelines (Nelson, Nyanrangi, & Maritim, 2012). • Due to the scarcity of statistical information, the collection of baseline data was done through literature review. In stakeholder consultations, inefficient coordination between countries was highlighted, and the suggested recommendations included models for river basin development management and institutional reform, including the creation of a Commission for the basin.

¹ The Guidelines for the Transboundary EA, adopted by LVBC, are an instrument developed by the East African Community for the region where the Mara River Basin is located. The initiative came from three neighbouring countries - Tanzania, Kenya, and Uganda - which recognised the threats that terrestrial and aquatic resources shared by them face; the incompatibilities between the countries' legal, political and institutional frameworks; and the individual desires to initiate projects with a potential impact on shared resources, promoted the creation of guidelines at the regional level for the environmental assessment of shared ecosystems in the East African region.

River basin	Main aspects of SEA methodology
<p>Shire River</p>	<ul style="list-style-type: none"> • The Management Programme assessed the baseline situation (scoping), notified, and consulted the co-riparian countries of Zambezi River Basin (transboundary consultation), evaluated the significant impacts of the proposed activities under the programme as well as potential mitigation measures (environmental report) and designed monitoring programmes. Even though none of the UN Treaties, or any other guidelines, are mentioned in the document, the methodology followed for the Shire River Basin touches the key points of Transboundary EA, as proposed by the UN Treaties. • Regarding the collection of baseline information, this was done through literature review, fieldwork, and public consultations with the main stakeholders (Water, Waste and Environment Consultants, 2013).

These methodologies followed a common structure, based on, or close to, the one recommended by the UN Treaties, to which the three riparian countries belong – and which intends to ensure efficient coordination between neighbour countries: the **Espoo Convention** and the **Kiev Protocol**.

The **recommendations offered by the World Bank** are often considered in the development of SEAs in Sub-Saharan Africa, as a significant number of SEAs carried out in the region focus on the World Bank’s financed policies, programmes, or plans. In fact, many of these SEAs have been designed to ensure compliance with operational policies imposed by the World Bank, to ensure funding for the instrument under evaluation [(World Bank, 2012), see section 2.4.3].

SEAs have been essential in the dissemination of environmental and socio-economic issues that are crucial to the implementation of targeted programmes and plans. Nonetheless, the collected and analysed information is not always properly considered in the preparation of plans and programmes, even though river basin management projects have proved to be the exception.

Among the methods applied in SEA in the Sub-Saharan Africa region, the importance of **public participation** in the preparation of a SEA stands out, and, consequently, the valuable role of SEA in fostering **community engagement**. The SEAs review performed

by the World Bank (World Bank, 2012) evidenced how the articulation between the treatment and dissemination of relevant information, and the holding of public consultation and political dialogue events results in a more effective SEA. Simultaneously, an effective SEA must promote public participation throughout the process, which, in turn, can contribute to the effectiveness of the policy, programme or plan implemented.

3. Guidelines for Transboundary EA in the CORB

According to Article 3 of the SADC Protocol, all State Parties sharing a watercourse within SADC region must comply with the principle of equitable and reasonable utilisation of the shared watercourse and have the duty to prevent significant transboundary harm. Concurrently, MSs have the duty to notify all potentially affected countries on any planned measure (i.e., a project, activity, plan, policy, or programme) which may have a significant transboundary adverse effect (Article 4). OKACOM NCN Guidelines provide guidance to OKACOM MSs when implementing the provisions of SADC Protocol.

Environmental assessments embody a key instrument to evaluate the significance and magnitude of potential impacts, agree on measures to mitigate negative impacts and enhance positive impacts, reach common consensus and agreement, and monitor potential environmental and social impacts. This way, a TEA will inform decision-making regarding the approval of planned measures. Furthermore, TEAs provide the necessary technical information for meaningful NCN processes, by assisting MSs when deciding upon the implications and impacts of a given planned measure, and whether the project, plan or programme is consistent with the principle of equitable and reasonable utilisation of the shared watercourse and the duty to prevent significant transboundary harm.

The primacy of EA is recognised by the three OKACOM MSs. Nonetheless, only Botswana's legal framework explicitly provides for TEA provisions (cf. section 2.2). Hence, in the absence of legal provisions in the respective national frameworks, MSs may find recommendations and guidelines for TEA in this document. The CORB TEAG will be a guiding instrument to assist OKACOM MSs when developing a TEA, following the implementation of the SADC Protocol, the provisions of the OKACOM Agreement and general international water law.

In this section, the TEAG for the CORB are presented. These TEAG were subject to review and consultation process with OKACOM MSs and stakeholders, and accommodate all appropriate suggestions and recommendations obtained.

The TEAG for the CORB should be applicable whenever an OKACOM MS (the MS of origin), or, more precisely, a person or body within a national territory of CORB, intends to develop an activity, project, policy, plan, or programme (hereinafter, a planned measure) likely to have a significant effect on another MS (the affected MS). The person

or body aiming to develop the planned measure will be, henceforth, referred as the proponent.

The CORB TEAG follow closely the guidelines provided by the Espoo Convention and the Kiev Protocol. Even though none of the OKACOM MSs has formally accessed the Convention, these UN Treaties are internationally accepted as best practice instruments. In fact, as analysed in section 2.4, several countries and organisations have adopted the UN Treaties when developing TEAs or TEA guidelines.

The **Espoo Convention** highlights five key points for conducting a Transboundary EIA (United Nations, 1991): notification of potentially affected Parties, environmental assessment report, consultation on the EA report, final decision, and monitoring. In the extension of this Convention to plans and programmes (United Nations, 2003), the screening and scoping stages were added.

The TEA process proposed in these CORB TEAG embodies the UN Treaties' key points and stages and specific adaptations to the CORB context. The process follows **6 (six) sequential stages**: *(i)* screening, *(ii)* scoping, *(iii)* development of the EA report, *(iv)* public hearing on the EA report, *(v)* decision, and *(vi)* monitoring. Moreover, **2 (two) elements were added for the entire duration of the TEA development**. Even though the public should be consulted on the basis of the EA report (stage 4), stakeholders and authorities' participation should be promoted during the whole process. Likewise, transboundary communication should be regular and present at all stages of the TEA. **Figure 2** presents the TEA stages proposed for the CORB TEAG.

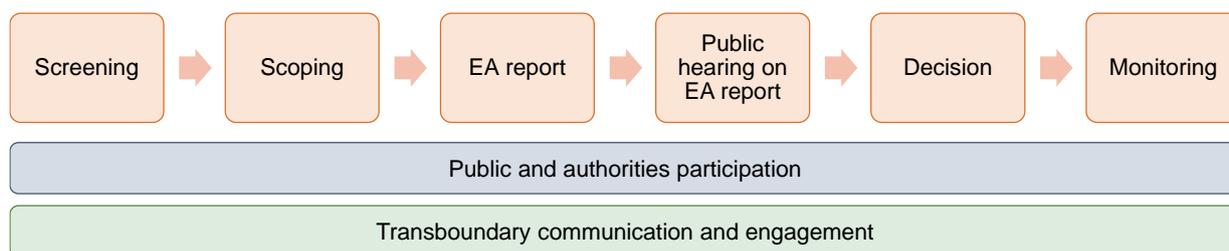


Figure 2 – Stages of the CORB TEAG

The TEA stages may be shortly summarized in the following manner:

- **Screening** – where the project, activity, policy, plan, or programme is assessed, to determine the likelihood of transboundary significant impacts on the CORB, and whether the planned measure should be subject to EA.
- **Scoping** – the scoping includes the collection of relevant baseline information, the elaboration of a scoping report, public participation, and preliminary notification of affected MSs.
- **Environmental assessment report** – the EA report includes the assessment of environmental and socio-economic impacts, namely transboundary impacts, as well as mitigation and monitoring measures. At this stage, the origin country should send the technical notification to affected MSs.
- **Public and authorities' participation and Public hearing on EA report** – stakeholders and national authorities' engagement and participation should take place during the whole TEA process; after the development of the draft EA report, public hearings should be held in order to obtain and incorporate suggestions and concerns into the final EA report and when implementing the planned measure.
- **Transboundary communication** – transboundary communication should be maintained at all times during the TEA process; under the duty to notify established by international law and the SADC Protocol, MSs are obliged to notify all potentially affected MSs on the planned measures; the notification, consultation and negotiation terms applicable to OKACOM MSs are provided in OKACOM NCN Guidelines.
- **Decision** – the EA will inform decision-makers on whether to authorise the implementation of the proposed measure; upon acceptance by the competent authority, the proponent must comply with all legal requirements when implementing the planned measure.
- **Monitoring** – during and after the implementation of the project, plan or programme, the planned measure must be monitored through monitoring plans or programmes.

Additionally, adaptations to the CORB reality shall be considered, as suggested by the Orange-Senqu River Basin TEA Guidelines (ORASECOM, 2011), previously mentioned in section 2.1, and whose basin includes Botswana and Namibia. In this context, TEA should consider:

- Both short-term and long-term socio-economic impacts.
- Indirect and cumulative impacts.
- The economic value of ecosystem services as well as the linkages between the environment, ecosystem services and human wellbeing.

In the next subsections, a detailed guideline for each stage of the TEA is presented. These guidelines establish all the necessary procedures to be undertaken, before and after the EA's approval by the competent authorities in each MS.

3.1. Screening

The screening stage aims to clarify the appropriate level of assessment of a planned measure, which may be an activity, project, plan, policy, or programme. Screening is usually conducted by a national environmental authority, involving other authorities and sectors as needed (OKACOM, 2018).

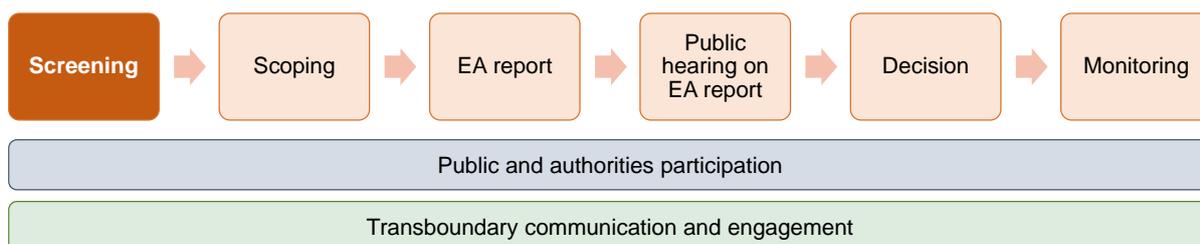


Figure 3 – Screening stage within the CORB TEAG process

Whenever a proponent within an OKACOM MS (the MS of origin) intends to develop an activity, project, policy, plan, or programme, it must determine whether the planned measure is likely to have a significant environmental, including health, impact upon another MS, and, if so, the planned measure should be subject to a Transboundary EA (either EIA or SEA, as applicable). The need to assess transboundary effects is supported by the provisions of **Article 3** of the SADC Revised Protocol on Shared Watercourses (SADC, 2000):

Article 3 specifies the general principles of the Protocol, where it is established that all State Parties sharing a watercourse within SADC region must comply with the principle of equitable and reasonable utilisation of the shared watercourse and have the duty to prevent significant transboundary harm.

The protocol is binding for all SADC MSs, and, therefore, for OKACOM MSs.

In this screening procedure, two tasks are essential: assessing whether the potential impacts have a transboundary reach, and whether the potential impacts are significant.

According to OKACOM NCN Guidelines (OKACOM, 2018), a significant transboundary environmental effect refers to impacts upon another OKACOM MSs, notably impacts on the water resources and related ecosystems of the CORB. Typically, a significant adverse effect involves a risk of real impairment of the watercourse, with impacts upon ecosystem services and / or upon socio-economics benefits derived from water

resources use. These adverse effects may impact, for instance, the water quality, ecosystem health, biodiversity, flow regime, and human health.

The area within which transboundary impacts may occur, under these guidelines, is the TEA area, as defined in Chapter 2, i.e., the CORB area under SEA, which includes the active basin (permanent surface water flows and wetlands), comprising the Cubango, Cuito, Okavango and Omuramba Omatako sub-basins.

The assessment of the significance of environmental impacts may resort to technics such as the pressure / impact analysis or risk assessments, or may rely on criteria assessment (for instance, size of the project, relevance of the PPP to promote sustainable development, potential effects), as suggested by UN Treaties. The assessment of impacts' significance may be done through a case-by-case approach, by analysing the specificities of each planned measure; or by defining types of activities and plans beforehand, namely through lists of planned measures which should always be subject to Transboundary EA.

According to (United Nations, 2003), **plans focused on specific sectors should always be subject to a SEA**, notably the agriculture, forestry, fisheries, energy, industry, and land use sectors. Likewise, certain **projects or activities should be subject to EIA**, in particular (OKACOM, 2018): large dams and reservoirs; large-scale surface or groundwater abstraction activities; large-scale inter-basin transfers of water resources; and deforestation of large areas. The **national legislation of each OKACOM MS contains their own list of activities** which should be subject to an EA.

In which regards the screening of PPPs, Botswana and Namibia's national legal frameworks provide lists of plans, programmes and policies which must be subject to SEA [(Republic of Botswana, 2012) and (Republic of Namibia, 2008)].

The screening of activities and projects in the three MSs must rely on the respective national EIA legal frameworks, where the activities and projects that must be subject to EIA are specified [(República de Angola, 2020); (Republic of Botswana, 2012); and (Republic of Namibia, 2007)].

The lists of activities, projects, plans, policies, and programmes which should be subject to SEA or EIA according to national legislation and the UN Treaties were compiled in **Annexes I.A and I.B**. These lists aim to guide OKACOM MSs in the absence of national legal provisions and instruments. If a planned measure is not contained in the lists of the

respective national EA instruments, MSs may screen the lists of PPPs (**Annex I.A**) and projects (**Annex I.B**) which should be subject to SEA and EIA, as proposed in these CORB TEAG. In particular, in the absence of SEA legislation, Angola's proponents may find guidance in **Annex I.A**.

Moreover, shall an activity, project, plan, policy, or programme be applicable to or may potentially affect a World Heritage Site (WHS), the Transboundary EA process should additionally comply with the **ICOMOS and IUCN guidelines for impact assessment on World Heritage properties** [(ICOMOS, 2011) and (IUCN, 2013)]. According to these guidelines, the potential impact assessment on WHS must be addressed throughout the entire EA process, and the EA report should contain a chapter dedicated solely to the WHS assessment (cf. Section 3.3). Currently, the TEA area comprises two WHS: the Tsodilo Hills and the Okavango Delta, both located in Botswana.

Transboundary communication should be initiated during the screening stage, where the MS of origin should pre-notify all potentially affected MSs on the planned measure (see section 3.6 for further details). Furthermore, the screening stage, as the first stage of the TEA process, should create opportunities for public engagement and participation, focused on the EA process (see section 3.4).

3.2. Scoping

When the screening reveals potential transboundary significant environmental impacts, the TEA should proceed to the scoping. The scoping stage prepares the ground for the environmental assessment report, by assuring that all important questions will be addressed, analysed, and evaluated (OKACOM, 2018).

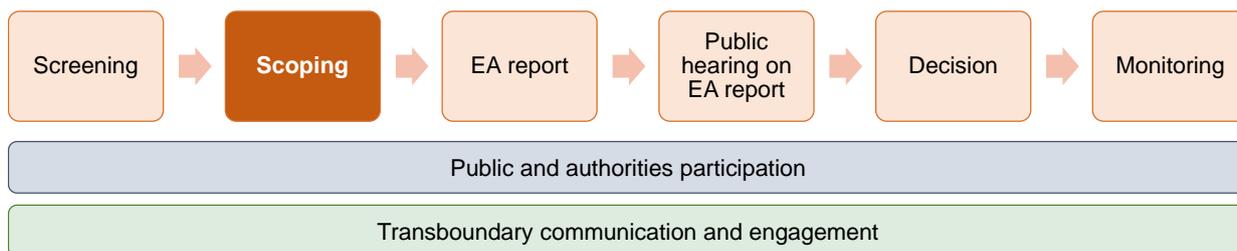


Figure 4 – Scoping stage within the CORB TEAG process

The scoping focuses on the collection of relevant baseline information, which shall be integrated in the EA report. This task comprises literature reviews, gathering accessible statistical data and geographical data available in Decision Support Systems of each MS and in CORB DSS. This process may also include field studies and should comprise consultations with potentially affected communities and other interested parties and stakeholders, notably international partners working in the area. These scoping consultation activities, which regards the EA process, enable the collection of comments early in the EA process and facilitate the collection of baseline information.

The baseline information’s collection process will allow for the determination of the specific spatial and temporal boundaries of the TEA, as well as the key issues to be covered, ensuring that all concerns, potential alternatives, and mitigation measures are adequately addressed in the EA report.

The scoping is the appropriate stage to prepare the Terms of Reference (ToR) for the EA report. The results of the scoping process should be presented in a scoping report, elaborated by an EA developer. The requirements for an EA scoping report may be found in the respective national EA legislation. These requests include, *inter alia*:

- Description of the planned measure, namely its location, nature / purpose, size / scale, timeframe, and objectives.
- Description of screening process.

- Description of methodology employed in the scoping and proposed methodology for the EA report, as well as the assumptions made.
- Baseline information of the environment likely to be significantly affected by the planned measure and its alternatives.
- Reasonable alternatives to the planned measure, including the no-action alternative.
- Identification of consultation activities performed to date and their contributions to the scoping.
- Key effects of the planned measure identified.
- Possible mitigation measures to adverse environmental impacts.
- Possible monitoring measures.
- Draft Terms of Reference for the EA report.
- Non-technical summary.

During the scoping stage, the origin MS should promote transboundary communication. In particular, it must send the preliminary notification to countries which might be affected by the planned measure. The preliminary notification, as defined by OKACOM NCN Guidelines, should contain all available information to date, notably the draft ToR and the draft EA scoping (the notification guidelines may be found in Section 3.6).

3.3. Environmental assessment report

The EA report embodies a central document in the TEA process, as it assesses the potential transboundary significant impacts, and, thus, the viability and implementation terms of the planned measure.

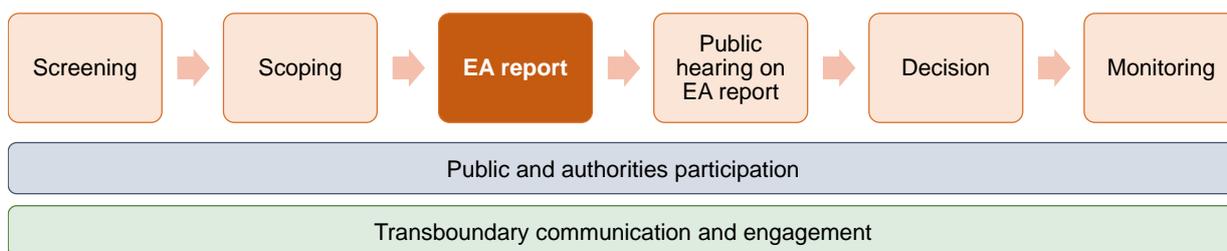


Figure 5 – EA report stage within the CORB TEAG process

The EA report is elaborated by an EA developer, following the ToR for the EA report prepared during the scoping stage. The content and structure of the report will vary according to the planned measure’s nature and must comply with the national EA legislation of the country where the measure will be implemented.

For plans, policies and programmes, a SEA is the appropriate EA instrument to be developed. As previously stated, both Botswana and Namibia have their own national SEA legislation, nonetheless, Angola lacks legal regulation in this regard. The CORB TEAG recommend SEA developers to follow the Kiev Protocol (United Nations, 2003), as well as any subsequent related conventions or protocols, which established that a SEA report should include:

- Contents and main objectives of the plan or programme and its connection with other plans or programmes in place / planned.
- Baseline information of the current state of the environment in areas likely to be affected.
- Likely evolution of the current state should the plan, or programme not be implemented.
- Environmental problems relevant to the plan or programme.
- The environmental objectives established at international, national, and other lower levels which are relevant to the plan or programme, and whether and how these objectives were considered during the preparation of the plan or programme.

- The possible significant environmental effects, including short-term and long-term, direct, and indirect, cumulative, and transboundary impacts, as well as the economic and social consequences of such impacts.
- Measures to prevent, reduce or mitigate any significant adverse effects on the environment, including health, resulting from the implementation of the plan or programme.
- Justification of the chosen alternative(s).
- Description of the methodology and the difficulties encountered, namely, technical deficiencies and lack of knowledge.
- Measures envisaged for monitoring environmental, including health, effects of the plan or programme.
- Non-technical summary.

For planned activities or projects, an EIA should be developed. The national legal frameworks of the three OKACOM MSs provide specific provisions for the content of EIA reports, which must be followed by the EA developer. Notwithstanding, the developer may find additional guidance in the Espoo Convention (United Nations, 1991), which established that an EIA report should contain, at least, the following information:

- Description of the proposed activity and its purpose.
- Reasonable alternatives to the proposed activity (such as alternative locations or technologies) including the no-action alternative.
- Baseline information of the environment likely to be significantly affected by the proposed activity and its alternatives, with consideration for the economic value of ecosystem goods and services, and the linkages between the environment, ecosystem services and human wellbeing.
- Assessment of the potential environmental impact of the proposed activity or project and its alternatives, as well as the estimation of its significance.
- Mitigation measures to adverse environmental impacts.
- Methodology and data used, as well as the employed assumptions.
- Identification of gaps in knowledge and uncertainties.
- Monitoring programmes.
- Non-technical summary.

According to Article 4 of the SADC Protocol, MSs have the duty to notify potentially affected countries on planned measures which may have a significant transboundary adverse effect. This obligation is equivalent to the technical notification, as defined in OKACOM NCN Guidelines. During the EA report stage of the TEA process, the origin MS must notify all potentially affected countries and shall deliver all information available to date relating to the planned measure, notably the findings of the completed draft EA, allowing the notified MSs to consider the implications of the planned measure and express their concerns and preferences regarding the activity or PPP (further details on the notification process may be found in section 3.6). The concerns and recommendations of the affected MSs, collected during the NCN process, should be included in the final EA report.

The development of the EA report should create opportunities for public participation (further detailed in section 3.4). Public consultations should be organised by the EA developer or the proponent with the aim to discuss and collect inputs and concerns from stakeholders (including the notified MSs) regarding the EA process. An open and participatory dialogue during the preparation of the EA report is crucial as it can advise about gaps in the legal and regulatory framework and provide opportunities for policy reform, through the inclusion of policy recommendations (World Bank, 2012).

Furthermore, after the completion of the draft EA report, the report should be subject to public hearing, and the comments and suggestions collected during this exercise should be incorporated in the final EA report.

3.3.1. Potential affection of a World Heritage Site

When an activity, project, plan, or programme is applicable to or might potentially affect the Outstanding Universal Value (OUV) of a World Heritage Site, the TEA should incorporate a World Heritage assessment (the TEA area currently includes two WHS: Tsodilo Hills, a cultural WHS; and Okavango Delta, a natural WHS). Given the OUV of these sites, it is crucial to evaluate the effects of the planned measures, to ensure the preservation of the OUV of the site, and of the wider ecosystem, to future generations.

ICOMOS and IUCN – the advisory bodies to the World Heritage Committee – provide specific guidance on environmental assessments for World Heritage properties

[(ICOMOS, 2011)² and (IUCN, 2013)³]. These organisations recommend that the EA report should further include:

- A non-technical / executive summary early on the report with reference to the World Heritage assessment.
- A full technical chapter dedicated to the World Heritage assessment, which, according to ICOMOS, may take the form of a technical appendix.

The technical chapter should include the following information:

- World Heritage site description and its OUV⁴.
- Environmental and social impact assessment of the planned measure, both beneficial and adverse, on the site's OUV, namely on values, integrity, and protection and management.
- Evaluation of the risks to the site.
- Reasonable alternative options, including the no-action alternative.
- Measures to mitigate or avoid the adverse impacts.
- Propose an Environmental Management Plan to monitor and restore the site when impacted by residual adverse effects.
- Outline how stakeholders' views and concerns were considered.

According to (IUCN, 2013), any proposed activity that is not compatible with the long-term objective of preserving the OUV should not be allowed, in particular, mineral, oil and gas exploration and exploitation projects should never be allowed within natural World Heritage Sites.

² A detailed Heritage Impact Assessment Process is available in (ICOMOS, 2011), nonetheless, the crucial points to be addressed in a TEA are outlined in these Guidelines.

³ The document further provides World Heritage Impact Assessment Principles for natural WHS and a step-by-step guidance on how to integrate WHS within Environmental Assessments.

⁴ The Outstanding Universal Value of each World Heritage Site is described in its Statement of Outstanding Universal Value, which may be found on the UNESCO World Heritage Centre website.

3.4. Public and authorities' participation

The previous subsections on TEA procedures evidenced the importance of engaging stakeholders and authorities throughout the whole TEA process. According to the UN Treaties, the public in the areas likely to be affected must have the opportunity to participate and express their opinion in every relevant EIA and SEA procedure, in a timely and effective manner. Furthermore, the Kiev Protocol emphasises the need to consult and engage with environmental and health authorities, as well as any other authority likely to be concerned by the impacts of the implementation of the planned measure.

As stated in (World Bank, 2012), decisions are not necessarily taken on the EA report but rather during the process. Public participation may take the form of focus group discussions, community surveys, and regional, national, and provincial workshops. This process will foster stakeholders' engagement and collaboration to ensure the sustainable development of the CORB. Furthermore, it may improve social accountability and encourage weaker stakeholders' participation (World Bank, 2012). All actors likely to affect or be affected by the planned measures should be invited to take part in the TEA process, namely local communities, NGOs, representatives of the sectors related to the planned measure, and government representatives. Stakeholders from both the origin country and the countries likely to be affected should be engaged.

In this context, the EA developer or the proponent should account for stakeholder participation moments in different stages of the process, aiming to discuss the TEA procedure. According to (United Nations, 2003), for an effective and just public participation, the EA developer should make available the following information to stakeholders, in a timely and easily accessible manner:

- The proposed activity, plan or programme and its purpose or nature.
- The authority responsible for its adoption.
- The envisaged procedure (namely, the opportunities for the public to participate, the time and venue of any foreseen public hearing, where to find the relevant information for public examination).
- Whether the activity, plan or programme is likely to be subject to a transboundary assessment procedure.

Furthermore, whenever a planned project, activity, plan, or programme is likely to affect the OUV of a World Heritage Site, the origin country should notify and consult the World Heritage Committee via the UNESCO World Heritage Centre (IUCN, 2013).

The comments and suggestions collected during consultation and participation activities should be incorporated in the outputs of the different TEA stages and, particularly, when implementing the planned measure.

3.5. Public hearing on EA report

EA legally binding instruments usually require holding public hearings after the completion of the EA report, and the legal frameworks of all three OKACOM MSs provide for these public hearing activities. Hence, as part of the sequential TEA process, and complementary to the public engagement promoted throughout the entire TEA, the TEA developer or the proponent should hold public hearings after the completion of the draft EA report.

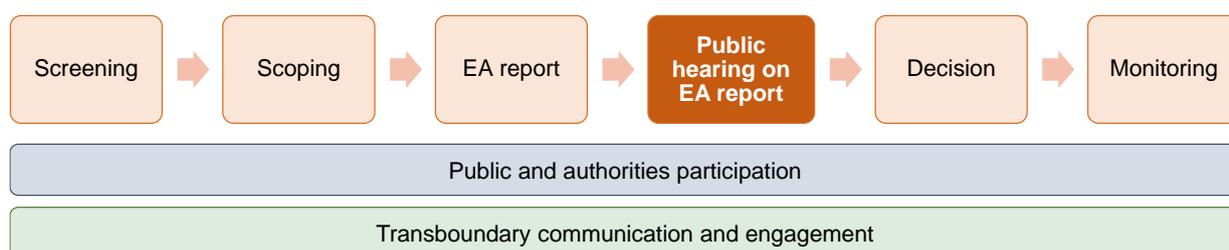


Figure 6 – Public hearing stage within the CORB TEAG process

At this stage, EA developers / the proponent should comply with all legal requirements imposed by the national EA legal frameworks. In particular, the draft EA report should be made available in an easily accessible manner.

In the context of transboundary EA, both the public from the country of origin and from the affected countries must have the opportunity to express their comments on the TEA process. The MS of origin should agree with the affected MSs and the proponent the most effective way of collecting and assessing public comments from the affected MSs (see sections 3.6 and 4.3).

The comments, suggestions and concerns raised during public hearings must be incorporated in the final EA report and taken in account when implementing the planned measure (after the final decision from the competent EA authority).

3.6. Transboundary communication

Transboundary communication, with MSs likely to be affected by the planned measures, should be maintained and promoted during the whole TEA process. Transboundary communication shall comprise the consultation and engagement activities provided by the TEA process, promoted by the EA developer / proponent; and the formally and legally required negotiation, consultation, and negotiation moments, promoted by the origin MSs. In the former consultation activities, part of the TEA process, potentially affected MSs should be engaged, in order to express their comments, concerns, and preferences regarding the TEA process to the EA developer /proponent. The latter, part of the NCN process, arise from the legally required duty to notify, where potentially affected MSs have the right to comment upon the planned measure itself.

When a MS (the origin /notifying country) aims to implement an activity, project, plan, or programme which is likely to cause significant adverse transboundary effects, the origin country has the duty to notify all potentially affected countries (the affected / notified countries). This duty is established in international law and in the SADC Protocol. Article 4 of the SADC Protocol has established the terms of notification, consultation, and negotiation which State Parties should follow (SADC, 2000):

***Article 4** establishes the duty to notify potentially affected countries on planned measures which may have a significant transboundary adverse effect; it specifies the terms of notification, consultation, and negotiation; and addresses environmental protection and preservation, shared watercourses management, prevention and mitigation of harmful conditions and emergency situations.*

The protocol is binding for all SADC MSs, and, therefore, for OKACOM MSs.

Recently, OKACOM developed NCN Guidelines, in a participatory process, aiming to **provide interpretive guidance to OKACOM MSs and the OKACOM Secretariat (OKASEC)** when implementing Article 4 of the SADC Protocol, the provisions of the OKACOM Agreement and general international water law (OKACOM, 2018). Hence, transboundary communication in the CORB is currently directed by OKACOM NCN Process, and the CORB TEAG entirely incorporate these NCN guidelines.

The transboundary notification, consultation, and negotiation stages, as defined in OKACOM NCN Guidelines, are presented below.

3.6.1. Notification, consultation, and negotiation stages

The OKACOM notification process encompasses **three stages**: *(i)* pre-notification, *(ii)* preliminary notification, and *(iii)* technical notification.

The **pre-notification** is not an official requirement, but it is recommended by OKACOM, as it can significantly contribute to subsequent official notification stages, since countries can exchange information earlier on the EA and feasibility study. Pre-notification takes place in routine communications between OKACOM MSs, which, according to (OKACOM, 2018), proves very important for cooperative, optimal and sustainable utilisation of the watercourse. Since this stage is not formal nor mandatory, there are no time constraints nor specific procedures to be followed under OKACOM notification process. Nonetheless, the origin country should pre-notify potentially affected countries during the TEA screening stage.

The **preliminary notification** embodies the first official and formal stage of OKACOM notification process, which should take place as soon as the feasibility of the planned measure is approved and during the TEA scoping phase. All available information to date, namely the draft ToR and the draft EA scoping, should be shared with the affected countries, allowing them to comment thereon. Similarly to the pre-notification stage, there is no binding timeline for the preliminary notification stage.

The **technical notification** is the second formal stage of the notification process and is equivalent to the legal requirements established in Article 4 of the SADC Protocol. At this stage (which coincides with the EA report stage of the TEA process), the origin country shall deliver all information, available to date, related to the planned measure, notably the findings of the completed draft EA report and feasibility study (or, at least, the executive summary of the EA report), allowing the notified MSs to consider the implications of the planned measure, and to enable a meaningful consultation and negotiation process. Notified MSs shall reply to the notification within a maximum period of six (6) months (which may be extended to twelve (12) months in exceptional cases). As this 6-months period is often considered short, the pre-notification process gains importance, by increasing the effectiveness of the NCN process, as regards the applicable timelines. Notified MSs have the right to express their concerns and preferences regarding the planned measure to the origin MS when replying to the technical notification. Concurrently, public consultations organised within the TEA process should provide opportunities for notified MSs to express their concerns and preferences regarding the TEA process to the EA developer / the proponent. These

functionally distinct NCN and TEA stages will overlap in time. Hence, advantage should be taken from this intersection of processes, promoting and enhancing both NCN and TEA transboundary consultation moments.

Figure 7 graphically portrays the coexistence / overlap of the TEA stages, proposed under these CORB TEAG, and the OKACOM NCN stages.

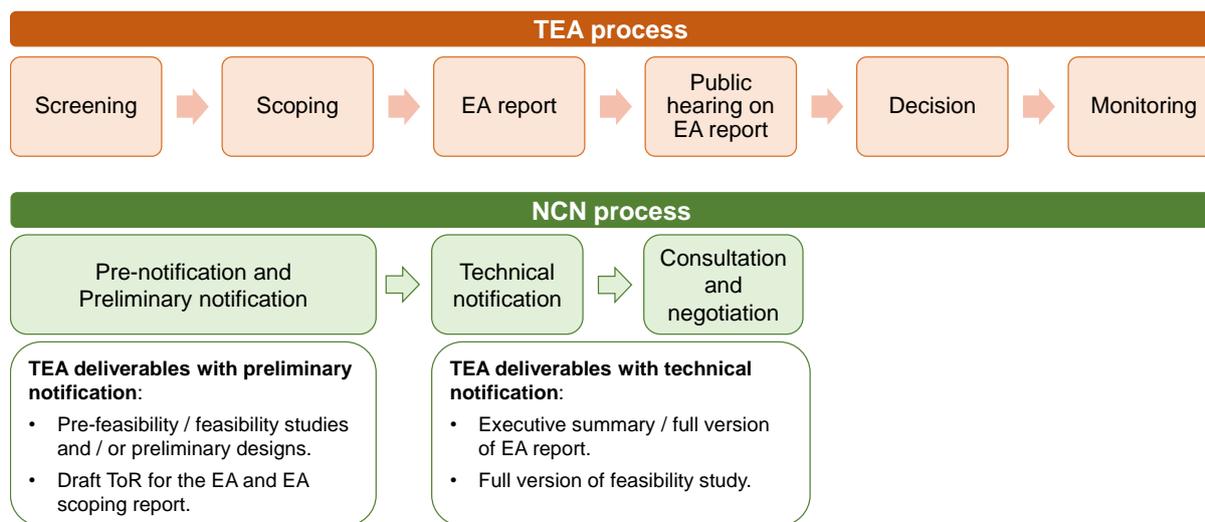


Figure 7 – Coexistence between the CORB TEAG and respective NCN processes

When replying to the notification, shall the notified MS expresses concern regarding the adverse impacts of the planned measure, by considering it would be inconsistent with the principle of equitable and reasonable utilisation of the watercourse or with the obligation to prevent significant transboundary harm, good faith **consultations and negotiations** may take place. The goal of these transboundary consultations and negotiations, which shall be organised by MSs, relies on arriving at agreement on an equitable solution regarding the planned measure. This process lasts a maximum of six (6) months, and, during this period, the plan or programme should not be implemented, unless otherwise agreed with the notified MSs. This provides notified MS with the power to delay the authorisation process for a six-month period (see section 3.7).

Figure 8 illustrates the stages and respective timelines of OKACOM NCN process.

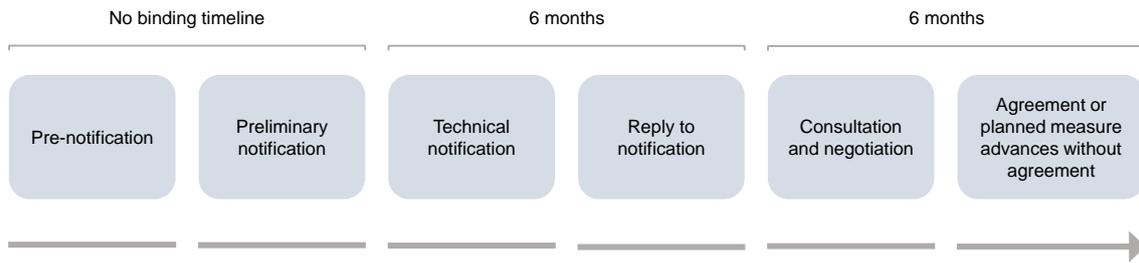


Figure 8 – Stages of OKACOM NCN process and respective timeline

3.6.2. Key authorities and responsibilities

OKACOM NCN process involves three key authorities: **(i)** national authorities competent for EA and NCN and / or the Ministries of Foreign Affairs; **(ii)** OKACOM cooperation framework; and **(iii)** OKACOM Secretariat.

National authorities must notify on planned measures and cooperate closely with OKASEC to ensure an effective NCN process. The national authorities responsible for EA and NCN processes in OKACOM MSs are identified in Table 7.

OKACOM Commissioners cooperate closely within the framework and with OKASEC during NCN. Commissioners inform OKASEC on national NCN issues and status. In OKACOM MSs, these commissioners are the authorities responsible for NCN and / or the Ministries of Foreign Affairs.

Finally, OKASEC facilitates the NCN procedure on the regional level by assisting OKACOM MSs throughout the whole process; by providing technical coordination (namely, by receiving and circulating preliminary and technical notifications, receiving and circulating replies to notification, consolidate replies to notification, and maintain a complete record of all inter-states' communications); by supporting technical analysis of the planned measures, focused on transboundary effects; by ensuring completeness of information in each NCN stage; and by organising and holding NCN meetings when necessary.

Table 7 – National authorities competent for EA and NCN in OKACOM MSs

Country	Ministry / Agency responsible for EA	Ministry / Agency responsible for NCN
Angola	Ministry of Energy and Water	Ministry of Foreign Affairs; Ministry of Energy and Water
Botswana	Department of Environmental Affairs, of Ministry of Environment, Natural Resources Conservation and Tourism	Ministry of Foreign Affairs; Department of Water and Sanitation of Ministry of Land Management, Water and Sanitation Services
Namibia	Ministry of Environment and Tourism and Ministry of Agriculture, Water and Forestry	Ministry of Foreign Affairs; Ministry of Agriculture, Water and Forestry with support of NamWater

3.6.3. Procedure for notification

The official notification process is initiated when the national competent authority for NCN and/or the OKACOM Commissioner of the origin country informs and submits the preliminary notification documents to OKASEC. OKASEC assesses the completeness of the information and circulates the documents to the notified OKACOM MSs. Notified MSs may comment upon the proposed EA exercise, and, if agreed with the notifying MS, to express their interest in being directly involved in the overall development and conduct of the EA, by exchanging information and providing technical inputs.

As soon as the draft EA report is completed, the country of origin must submit the **technical notification** to OKASEC, which, once again, will review its completeness and circulate it to notified MSs.

Upon reception of the technical notification, from OKASEC, notified MSs have a maximum of six months to review the technical information and consider the implications of the planned measure, to form and express an opinion on the potential effects of the planned measure through a notification response. The **reply to notification** may express approval, concerns, objections; recommend mitigation measures, monitoring programmes or alternatives; and request relevant additional information. OKASEC may assist MSs during technical reviews. The communication of replies to notifications should as well be made through OKASEC.

As established in OKACOM NCN Guidelines, if no notification process has been initiated, and a potentially affected MS has reasonable grounds to believe that another MS is planning measures that may have a significant adverse effect upon it, the potentially affected MS may **request a notification**, through a written letter of request, sent to OKASEC. The MS believed to be planning measures may accept the request, in which case it shall provide the preliminary and technical notifications to OKASEC; or deny the request and, if a disagreement persists between MSs, OKASEC shall facilitate consultations and negotiations.

To assist the notification process, **Annexes II, III and IV** provide templates for letters of notification, reply to notification, and request of notification, respectively, in accordance with (OKACOM, 2018). Notification letters must be addressed to OKACOM Executive

Secretary, while notification requests must be sent to OKACOM Executive Secretary and addressed to the responsible entity of the MS believed to be planning measures.

3.6.4. Procedure for consultation and negotiation

When a notified MS considers that the implementation of the planned measure would be inconsistent with Article 3 of the SADC Protocol, i.e., with the principle of equitable and reasonable utilisation of the shared watercourse or the duty to prevent significant transboundary harm, it may request good faith **consultations and negotiations** to be initiated, as means to achieve an amicable settlement. MSs and the OKACOM Secretariat must agree upon the terms, content and format of the procedure, particularly on its termination. In principle, consultations and negotiations will aim to define additional measures that can avoid, minimise or mitigate the transboundary impacts of the planned measure in question. OKASEC facilitates and supports consultations and negotiations between MSs. In case of disagreement between riparian countries, OKASEC should act as a mediator and make proposals for reaching agreement.

This stage shall be concluded within a six-month period, starting from the receipt of the reply to notification. According to the SADC Protocol, during this six-month period and if requested by the notified MS, a project should not be implemented. This implies notified MS has the power to delay the authorisation process for a six-month period.

If MSs are unable to reach a consensus after this six-month period, this dispute should be referred to the SADC Tribunal (SADC, 2000). The right to appeal to SADC Tribunal would give MSs leverage in the final decision to authorise the planned measure. Notwithstanding, the Tribunal is currently non-functioning. In the absence of a functioning SADC Tribunal, the planned measure may advance without an agreement between MSs. Hence, the notification process under TEAs is consultative, i.e., the output of the NCN procedure may advise, rather than force, the final decision taken by the national EA authority on whether to authorise the planned measure.

3.7. Decision

The completion of the final EA report will inform decision-making on the approval or rejection of the planned measure. The terms of implementation of the planned measure, its projected impacts, proposed mitigation measures, the concerns, opinions and suggestions provided by stakeholders during consultation moments, and the outcome of the notification process are submitted to consideration and will advise the final decision.

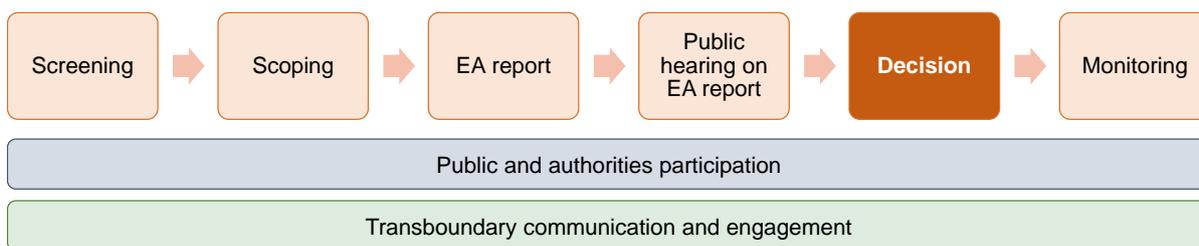


Figure 9 – Decision stage within the CORB TEAG process

In accordance with the national legal frameworks of each OKACOM MSs, the national Agency / Ministry at the country of origin responsible for EA procedures will, at this stage, issue a bidding decision to either approve or reject the implementation of the planned measure. If approved, the origin MS may officially develop the activity or project or adopt the plan, policy, or programme.

When implementing the approved planned measure, the proponent must ensure compliance with all legal requirements set under national law. Particularly, the origin MS must ensure that the conclusions of the EA report are materialised and incorporated upon implementation of the planned measure. National EA authorities may undertake monitoring and auditing exercises during and after the implementation of the planned measure to determine compliance with the agreed implementation conditions and mitigation measures.

All contributing stakeholders must be informed when the planned measure is adopted, and how their comments and suggestions were integrated, as well as the reasons for choosing a certain alternative. Moreover, the MS of origin shall make the project, plan, policy, or programme available.

3.8. Monitoring

As provided in national legal frameworks and recommended by UN Treaties and the proposed CORB TEAG, EA developers shall elaborate a monitoring plan /programme for the planned measure. Monitoring programmes aim to ensure compliance with legal standards and regulations, monitor the performance and effects of the planned measure, and implement corrective actions for potentially unforeseen adverse effects.

The requirements regarding the content of the monitoring programme are set under national environmental law and include, *inter alia*, the definition of the parameters to be monitored; the location, methods, and frequency of monitoring; the responsible agent for monitoring; and the thresholds / standards. As stated in section 3.7, the national Agencies / Ministries responsible for EA procedures perform monitoring and auditing exercises during and after the implementation of the planned measure to determine compliance with the agreed implementation conditions and mitigation measures.

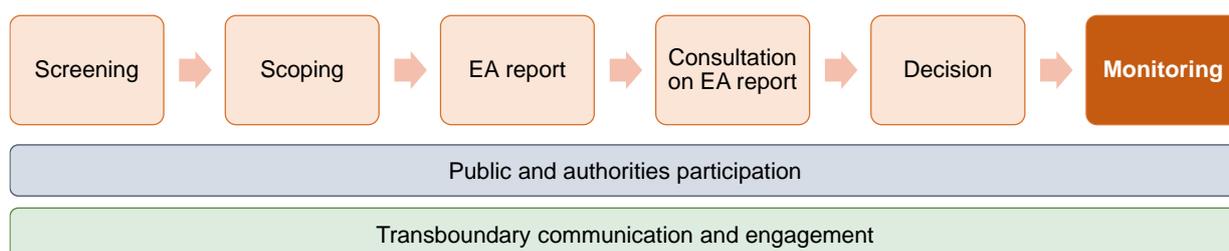


Figure 10 – Monitoring stage within the CORB TEAG process

The results of the monitoring procedure should be made available to the environmental and health authorities, remaining OKACOM MSs, and all interested stakeholders.

3.9. Summary

The CORB TEAG advise for the development of a Transboundary EA whenever a proponent in an OKACOM MS intends to implement an activity, project, policy, plan, or programme likely to have a significant effect upon another MS. According to the SADC Protocol, OKACOM MSs have the duty to prevent significant transboundary harm and should comply with the principle of equitable and reasonable utilisation of the shared watercourse. Moreover, MSs are obliged to the duty to notify potentially affected countries on any planned measure capable of producing a significant transboundary adverse impact. Hence, developing TEAs would, not only inform decision-makers on the approval of planned measures, but also provide the necessary technical information for meaningful notification processes, by assisting MSs when deciding upon the implications and impacts of a given planned measure, and whether the project, plan or programme is consistent with the principle of equitable and reasonable utilisation of the shared watercourse and the duty to prevent significant transboundary harm.

In the absence of national legal provisions related to EA and TEA processes, OKACOM MSs may find guidance in the CORB TEAG. The CORB TEAG propose eight (8) stages to develop a TEA. A summary of the TEA stages, detailed in the above subsections, is outlined in Table 8, with the essential procedures to be performed and the main responsible entities at each stage.

Table 8 – Essential procedures and responsible entities in each stage of a TEA

Stage	Responsible entity	Key procedures
Screening	EA developer / proponent, EA authorities	<ul style="list-style-type: none"> • Assessment of transboundary reach. • Evaluation of impact significance.
Scoping	EA developer / proponent, NCN authorities, EA authorities,	<ul style="list-style-type: none"> • Assembly of baseline information, comments, and suggestions of concerned stakeholders. • Elaboration of scoping report. • Preliminary notification of affected OKACOM MSs and reception of their comments.

Stage	Responsible entity	Key procedures
EA report	EA developer, EA authorities	<ul style="list-style-type: none"> • Elaboration of the environmental report, containing, <i>inter alia</i>, the description of the plan; baseline information and scenarios; likely significant environmental effects; mitigation and monitoring measures. • Technical notification to affected OKACOM MSs.
Public and authorities' participation	NCN authorities, EA authorities, EA developer / proponent	<ul style="list-style-type: none"> • Engage with stakeholders and health and environmental authorities. • Incorporation of suggestions and concerns in the EA report.
Public hearing on EA report	EA authorities, EA developer / proponent	<ul style="list-style-type: none"> • Organisation of public hearing to discuss the completed EA report. • Incorporate and address comments, suggestions, and concerns in the final EA report.
Transboundary communication	NCN authorities, OKASEC	<ul style="list-style-type: none"> • Notification, consultation, and negotiation with OKACOM MSs.
Decision	EA authorities, EA developer / proponent	<ul style="list-style-type: none"> • Final decision taken by EA authority, informed by the TEA report. • Notify MSs and stakeholders on the decision.
Monitoring	EA authorities, EA developer / proponent	<ul style="list-style-type: none"> • Design and implement monitoring programmes. • Share results with stakeholders.

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4. Final recommendations

To ensure an effective application of the TEA Guidelines proposed herein for OKACOM MSs, final recommendations, regarding transboundary communication procedures and guiding international principles, are provided.

4.1. Recommendations for notification

Whenever a measure is planned by more than one MS, each MS involved in the planning shall be responsible for ensuring effective notification through OKASEC, either individually or jointly.

The ability of affected countries to argue and justify their concerns and objections regarding a planned measure, as well as to recommend mitigation measures, monitoring programmes or alternatives, will depend on the completeness of information provided by the origin MS. Therefore, to allow for meaningful notification processes, and eventual consultations and negotiations, the origin country shall provide the affected MSs with all available and appropriate documents, reports and supporting data.

Moreover, notified MSs should, when appropriate, enjoy OKASEC's technical support, during the review of the technical information received, and during the preparation of the reply to notification.

The authorities responsible for NCN processes in each riparian country should designate a contact person within the respective Ministry / Agency to facilitate the contacts between notifying and notified MSs. The contact details of the contact person should be provided to the other MSs involved in the TEA process in the notification letters (OKACOM, 2018).

To facilitate an effective notification process, templates for letters of notification, reply to notification, and request of notification are provided in **Annexes II, III and IV**, respectively.

4.2. Recommendations for consultation and negotiation

When a notified MS expresses concern regarding the adverse impacts of the planned measure, by considering that it would be inconsistent with equitable and reasonable utilisation of the watercourse or with the obligation to prevent significant transboundary harm, as provided by Article 4 of SADC Protocol, consultations and negotiations should take place, aiming to achieve an equitable resolution.

Consultations and negotiations should be conducted in good faith. Good faith is a general principle of international law considered essential for the maintenance of effective inter-State relations, the equitable balance of competing interests, and the amicable avoidance and/ or resolution of disputes. Conducting consultations and negotiations in good faith requires that MSs communicate and treat each other in an honest and fair manner, without undermining the rights of the other MSs (OKACOM, 2018).

Notwithstanding the NCN process has a consultative nature, OKACOM MSs should make every good faith effort to resolve disputes amicably and reach a consensus on the implementation terms of the planned measure.

4.3. Recommendations for transboundary communication in EA

4.3.1. Recommendations for the Ministry / Agency responsible for EA and NCN in the MS of origin

When the proponent proposes the development of a planned measure, it should verify whether the planned measure will be located within TEA area, and whether the activity or plan is included in the list of planned measures which shall be subject to SEA or EIA, according to the respective national EA legal frameworks. Nonetheless, the proponent should inform the Ministry / Agency responsible for EA in the MS of origin about the intention to implement the planned measure. Afterwards, the Ministry / Agency should screen the activity or plan, to determine whether it is likely to cause transboundary impacts.

Consultation and exchange of information with the affected MS should not be restricted to the formal and required notification procedures under NCN process. Instead, there should be a continuous exchange process throughout the entire TEA procedure, namely, through consultations with stakeholders and environmental and health authorities. While the former are organised by MSs themselves, the latter as usually organised by the

proponent /EA developer. Nonetheless, the MS of origin should facilitate transboundary consultations held under the TEA process, in particular, the MS of origin should agree with the affected MSs and the proponent the most effective way of collecting and assessing public comments from the affected MSs. It is important to emphasise that the chosen mechanism should be transparent.

4.3.2. Recommendations for the Ministry / Agency responsible for EA and NCN in the affected MS

When the affected MS receives the scoping report, with the preliminary notification of the origin MS, and the EA report (either SEA or EIA), with the technical notification, the notified MS must evaluate the received information. To assist this process, **Annexes V, VI and VII** provide templates for evaluation of scoping reports, SEA reports, and EIA reports, respectively [adapted from (OECD, 2006) and (ORASECOM, 2013)]. Affected MSs should consider external evaluations to avoid bias.

4.3.3. Recommendations for the Proponent

Transboundary notification should follow OKACOM NCN process, which states that notifications should be elaborated by the Ministries /Agencies responsible for NCN and delivered through OKASEC. Nonetheless, the proponent should assist the Ministry / Agency of the origin MS with this task, in which regards the provision of information on the planned measure.

4.3.4. Recommendations for OKACOM

As previously stated, external evaluations of the EIA and SEA reports could avoid bias. In this concern, OKACOM could extend its mandate and strengthen EA governance in the CORB by assuming the role of external evaluator. More precisely, OKACOM could commission independent reviews of EAs for large projects and plans within CORB countries. Since OKACOM would have to bear the external reviewing costs, it should consider the creation of a TEA fund.

4.4. Guiding international principles

When applying this TEAG, OKACOM MSs should endeavour to promote the application of three (3) essential principles of international environmental and natural resources law:

Ecosystem approach

- The Fifth Meeting of the Conference of the Parties (COP 5) to the Convention on Biological Diversity (Conference of the Parties, 2000) called governments and international organisations to apply the ecosystems approach principles. This approach states that humans are an integral component of ecosystems and, thus, they should be assessed in an integrated manner, that promotes equitable conservation and sustainable use.

Precautionary principle

- According to Rio Declaration on Environment and Development (United Nations, 1992), the precautionary principle should be employed in situations of uncertainty to protect the environment. This principle states that, where there is risk of serious or irreversible environmental damage, lack of full scientific certainty should never be a valid reason to postpone a cost-effective measure to prevent environmental degradation, i.e., MSs should take the necessary measures to anticipate, prevent and mitigate serious adverse impacts despite potential scarcity of information and certainty regarding the likelihood or significance of the damage.

Polluter pays principle

- The Rio Declaration on Environment and Development (United Nations, 1992) further established that States should promote the internalisation of environmental costs, as well as the use of economic instruments, bearing in mind the polluter pays principles. The MS that proposes a planned measure which causes harm to the environment should bear the cost of any mitigation and avoidance measures.

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Annex I – List of policies, plans, programmes, and activities which should be subject to TEA

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**Annex I.A – List of plans, programmes and policies
which should be subject to Transboundary SEA**

Table I.A - List of plans, programmes and policies which should be subject to SEA

Plans, programmes, and policies
<p>Instruments for the following sectors:</p> <ul style="list-style-type: none"> • Agriculture, • Forestry. • Fisheries. • Energy. • Industry, including mining. • Transport. • Regional development. • Waste management. • Water management. • Telecommunications. • Tourism. • Town and country planning or land use.
<p>Instruments which set the framework for future development consent for:</p> <ul style="list-style-type: none"> • Activities listed in Table I.B (i.e., activities which shall be subject to transboundary EIA).

Source: Adapted from (United Nations, 2003).

Annex I.B – List of activities which should be subject to Transboundary EIA

Table I.B - List of activities which should be subject to EIA

Sector	Activity
Agriculture, fisheries, and forests	Rural land consolidation projects
	Large scale farms or land development for field crops
	Projects to allocate uncultivated land or semi-natural areas to intensive agricultural exploitation
	Agricultural hydraulics projects
	Irrigation projects
	Large projects for the installation of large-scale aquaculture industrial units / fish-farming systems or, independently of size, that have waste sewers for running water courses / irrigation with wastewater
	Fences to control wildlife and livestock diseases
	Afforestation and reforestation projects
	Deforestation of large areas
	Projects for the industrial exploitation of forest resources
	Restoration of land from the sea
Extractive and associated industry	Industrial and agro-industrial complexes and units
	Crude oil refineries, oil pipelines, gas pipelines, ore pipelines, collecting trunks and sanitary sewer outfalls
	Deep drilling
	Exploration, extraction or processing of oil, natural gas, coal bed methane, shale, or other hydrocarbons
	Prospecting and exploration of heavy metals and radioactive minerals
	Extraction of pit sand, river sand, gravel and clay
	Mining within a river system or wetland
	Exploration of minerals, including quarrying, where drilling and blasting is involved

Sector	Activity
	Mineral processing
	Open-pit extraction of non-metallic or energy-producing minerals
	Extraction of hard coal and lignite in underground and open-pit explorations
	Installations for the manufacture of cement
	Installation and location of heaps and dumps, tailing's sedimentation basin, or storage of explosive substances for mining
	Installation of ore and gas pipelines
	Facilities for the storage of scrap from mining machinery and equipment
	Metallurgical and chemical plants associated with mining
	Installations for the extraction, processing and transformation of asbestos and products containing asbestos
	Foundries and other specific facilities for mining
Energy industry	Industrial installations for the transport and storage of gas, steam and hot water, transport of electrical energy by aerial cables
	Oil refinery plants and installations for the gasification and liquefaction of coal or bituminous shale
	Surface and underground storage of natural gas and fossil fuels
	Commercial plants for manufacture of charcoal and coal briquettes
	Installations for biofuel production
	Industrial agglomeration of hard coal and brown coal
	Nuclear or thermal power plants
	Construction of radioactive energy facilities
	Construction of facilities for electricity generation, power lines and power substations
	Electric power transmission lines (above 230kv)

Sector	Activity
	Hydraulic works for the exploitation of water resources, such as: dams for hydroelectric, sanitation or irrigation purposes, opening of channels for navigation, irrigation, rectification of water courses, opening of bars and inlets, transposition of basins, dikes
Glass making, rubber, plastic, and chemical industry	Chemical manufacturing or processing plants
	Storage facilities for hazardous chemicals
	Plants for the manufacturing or processing of plastic and rubber
	Fertilizer and pesticide manufacturing or processing plants
	Large scale application of new pesticides and fertilizers introduced in the country for the first time
	Facilities for the manufacture of pharmaceutical products
	Facilities for the manufacture of paints and allied products
Infrastructure	Construction and fencing of roads
	Construction of tunnels, and of bridges over water courses
	Construction of railways and facilities for intermodal transshipment and parking terminals
	Ports, terminals and inland waterways
	Airports and airfields
	Construction of dams, reservoirs, levees, weirs, channels, river diversions and other measures that affect the flow of river systems
	Water transfer schemes between catchments
	Groundwater abstraction activities
	Intention of recharging an aquifer with wastewater
	Development of flood control schemes
	Construction of water pipelines and reticulation networks
	Construction of storm water drainage facilities
	Coastal works aimed at combating erosion and maritime works aimed at modifying the coast

Sector	Activity
	Construction of fire breaks
	Construction of telecommunication cables and networks
	Institutional facilities, and industrial or urban development projects
	Infrastructure development inside protected or sensitive areas
	Establishment of incinerators, cemeteries, and crematoria
	Facilities for the destruction of products unfit for food consumption
Waste management	Establishment or expansion of waste storage, disposal, treatment, or management facilities
	Wastewater treatment plants
	Sewer networks
	Pre-treatment facilities containing hazardous waste
	Sanitary landfills, processing, and destination of toxic or hazardous waste
	Sites for sludge deposits and scrap storage
Other projects	Test benches for engines, turbines, or reactors
	Installations for the manufacture of artificial mineral fibres
	Manufacture, packaging, distribution, or destruction of explosive substances
	Pulp and paper mills
	Woods' processing operations
	Installations for slaughter of animals

Note: Complete lists of activities which shall be subject to EIA may be found in Espoo Convention, Angola's Decree No. 117/20 of 22nd April on Environmental Impact Assessment, Botswana's Environmental Assessment Regulations of 2012, and Namibia's Environmental Management Act 7 of 2007 [(United Nations, 1991); (República de Angola, 2020); (Republic of Botswana, 2012); (Republic of Namibia, 2007)]. The above table provides a compilation of these lists.

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Annex II – Template for letter of notification

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Annex II.A – Template for letter of preliminary notification

Logo / symbol of notifying entity

[Name of person sending the notification letter]

[Entity]

[Postal address]

[Name of current OKACOM Executive Secretary]

OKACOM Secretariat

P.O. Box 25741

Gaborone, Botswana

[Location, date]

Honourable [name of current OKACOM Executive Secretary],

In accordance with the duty to notify established by OKACOM Notification, Consultation and Negotiation Guidelines and by SADC Revised Protocol on Shared Watercourses, [notifying entity] hereby provides the notification letter on the upcoming development of a Transboundary EA process for the intended [name of planned measure], to be circulated to [notified Member States]. The notification details follow.

Details of notification

Notification type	Preliminary
Date of submission	[Day, month, year]

Logo / symbol of notifying entity

Contact details of notifying entity

Notifying Member State	[Name of the notifying Member State]
Notifying entity	[Name of notifying Ministry / Agency]
Contact person	[Name of contact person]
Postal address	[Postal address of contact person]
Telephone number	[Telephone number of contact person]
E-mail address	[E-mail address of contact person]

Details of planned measure

Description of planned measure	[Brief description of the planned measure, which shall include location, nature / purpose, and size / scale]
Timeframe	[Expected timeframe for implementation of the planned measure, which shall include anticipated commencement and completion dates]
<i>Discretionary / optional (this line may be erased)</i> Funding	[Source of funding for the planned measure, and any environmental and social safeguard standards dictated by the funding agency in question]

Logo / symbol of notifying entity

Documents provided with this letter

<p>Technical data and information</p>	<p>[Name of documents]</p> <p>Note: All technical data and information available to date should be sent with the preliminary notification letter, in particular:</p> <ul style="list-style-type: none">• Any pre-feasibility / feasibility studies and / or preliminary designs.• Any draft ToRs for an EA and any scoping report for an EA.
<p><i>Discretionary / optional (this line may be erased)</i></p> <p>Invitation to notified Member State</p>	<p>[Name of document(s)]</p> <p>Note: If appropriate, the notifying entity may provide an invitation to notified Member States to make early submissions regarding any aspect of the conduct and development of the EA, and setting out any preferred process for making such submissions, including the relevant timeframe]</p>

[Signature]

[Name]

[Position at the notifying entity] at [notifying entity]

Annex II.B – Template for letter of technical notification

Logo / symbol of notifying entity

[Name of person sending the notification letter]

[Entity]

[Postal address]

[Name of current OKACOM Executive Secretary]

OKACOM Secretariat

P.O. Box 25741

Gaborone, Botswana

[Location, date]

Honourable [name of current OKACOM Executive Secretary],

In accordance with the duty to notify established by OKACOM Notification, Consultation and Negotiation Guidelines and by SADC Revised Protocol on Shared Watercourses, [notifying entity] hereby provides the notification letter on the developed Transboundary EA for the intended [name of planned measure], to be circulated to [notified Member States]. The notification details follow.

Details of notification

Notification type	Technical
Date of submission	[Day, month, year]

Logo / symbol of notifying entity

Contact details of notifying entity

Notifying Member State	[Name of the notifying Member State]
Notifying entity	[Name of notifying Ministry / Agency]
Contact person	[Name of contact person]
Postal address	[Postal address of contact person]
Telephone number	[Telephone number of contact person]
E-mail address	[E-mail address of contact person]

Details of planned measure

Description of planned measure	[Brief description of the planned measure, which shall include location, nature / purpose, and size / scale]
Timeframe	[Revised or final timeframe for implementation of the planned measure, which shall include anticipated commencement and completion dates]

Logo / symbol of notifying entity

Details of planned meetings and workshops

<p><i>Discretionary / optional (this section may be erased)</i></p> <p>Planned meetings and / or workshops</p>	<p>[Details of technical exchange meetings and workshops that may be employed as fora to exchange information in the best possible way]</p>
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Documents provided with this letter

<p>Technical data and information</p>	<p>[Name of document(s)]</p> <p>Note: The notifying entity shall provide one mandatory document:</p> <ul style="list-style-type: none">• Executive summary of EA report. <p>In addition, the notifying entity may provide discretionary / optional documents:</p> <ul style="list-style-type: none">• Full version of feasibility study.• Full version of EA report.• Any information that may be needed to understand possible significant adverse transboundary effects and undertake a complete technical review and analysis of the planned project.
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[Signature]

[Name]

[Position at the notifying entity] at [notifying entity]

Auxiliar document for notifying Member State: Executive Summary of Transboundary EA Report

According to (OKACOM, 2018), an executive summary of the EA report, must include, at least, the following information:

- Detailed description of the planned measures and their purpose.
- Description, where appropriate of reasonable alternatives, including the no-action alternative.
- Description of the environmental features and/or socio-economic benefits likely to be significantly affected by the planned measures or by reasonable alternatives.
- Estimation of the significance of transboundary impacts.
- Description of mitigation measures to keep adverse transboundary effects to a minimum.
- Indication of predictive methods and underlying assumptions, as well as the relevant data used.
- Identification of gaps in knowledge and uncertainties encountered in compiling the required information.
- Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and
- A non-technical summary including a visual presentation as appropriate.

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Annex III – Template for response letter

Logo / symbol of notified entity

[Name of person sending the reply to notification]

[Entity]

[Postal address]

[Name of current OKACOM Executive Secretary]

OKACOM Secretariat

P.O. Box 25741

Gaborone, Botswana

[Location, date]

Honourable [name of current OKACOM Executive Secretary],

In accordance with the transboundary notification process established by OKACOM Notification, Consultation and Negotiation Guidelines and by SADC Revised Protocol on Shared Watercourses, [notified entity] hereby provides the reply to notification letter on the Transboundary EA for the intended [name of planned measure], developed by [notifying Member State].

[In this space, the notified Member State shall communicate its findings on the notified planned measures. This reply to notification may include:

- Expression of approval.
- Expression of concerns, objections:
 - Shall the notified MS determine that implementation of the planned measure would be inconsistent with the principle of equitable and reasonable utilisation of shared watercourses or the duty to prevent significant transboundary harm, a documented explanation setting out the reasons for its findings must be included.
- Provide recommendations.
- Request of relevant additional information.]

[Signature]

[Name]

[Position at the notified entity] at [notified entity]

Annex IV – Template for notification request letter

Logo / symbol of requesting entity

[Name of person sending the notification request letter]

[Entity]

[Postal address]

[Responsible entity of the MS believed to be planning measures]

[Postal address]

[Location, date]

Honourable [responsible entity of the MS believed to be planning measures],

In accordance with the right to request a notification, established by OKACOM Notification, Consultation and Negotiation Guidelines and by SADC Revised Protocol on Shared Watercourses, [requesting entity] hereby requests a notification on the intended [name of planned measure in question]. The notification request details follow.

Details of requesting entity and notification request

Requesting Member State	[Name of the Member State requesting the notification]
Requesting entity	[Name of Ministry / Agency requesting the notification]
Contact person	[Name of contact person]
Postal address	[Postal address of contact person]
Telephone number	[Telephone number of contact person]
E-mail address	[E-mail address of contact person]

Logo / symbol of requesting entity

Date of submission

[Date of submission of request]

Details of planned measure

Description of planned measure

[Brief description of the planned measure in question, which shall include nature / purpose]

Documents provided with this letter

Reason for making the request

[Name of document]

Note: The requesting entity shall provide a documented explanation setting out the underlying reasons for the request. This document must include, at least:

- The reasons for believing that the other MS is actually planning the measure in question.
- How that planned measure might adversely affect any other MS or the water resources or related ecosystems of the CORB.

[Signature]

[Name]

[Position at the requesting entity] at [requesting entity]

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Annex V – Indicative check list for evaluating an EA Scoping Report

Checklist for evaluating a Scoping Report

This document provides an indicative checklist to assist the evaluator in the process of assessing a Scoping Report. The evaluation form provides the main areas to be evaluated and the respective key question to be assessed within each area. The evaluator should rate each area and key questions, according to the following criteria:

- **C: Comprehensive** - All necessary information is provided and no additional information is required.
- **A: Adequate** - The information provided is incomplete, but sufficient to assess the planned measure.
- **I: Inadequate** - The information provided is insufficient to assess the planned measure and additional information is required.

Details of planned measure

Planned measure	[Type and name]
Location	[Country and precise location]
Author of Scoping Report	[Name of company]
Date of completion of Scoping Report	[Date, as mentioned in Scoping Report]

Details of evaluator

Evaluator	[Name, entity if applicable]
E-mail address	[E-mail address of evaluator]
Date of evaluation	[Date of completion]

Evaluation form of scoping report

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Methodology			
Has the screening and scoping processes been described?			
Were the assumptions, limitations, gaps, and constraints of the study clearly stated?			
Does the report explain the methodology used in the scoping process, namely, how the data was collected?			
Were the relevant regulations, policies and legislation of the origin country been stated?			
Have the relevant international protocols, conventions and agreements been stated, with reference to how these obligations have and will be met?			
Does the scoping report propose a methodology to be employed in the EA report?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Notification and consultation process			
Have all potentially affected parties and relevant stakeholders been identified?			
Were all potentially affected OKACOM MSs pre-notified, as recommended in OKACOM NCN Guidelines?			
Were consultations with interested and affected parties and relevant stakeholders, in the context of the screening and scoping, been held? Was this process described in the report?			
Have all interested and affected parties and relevant stakeholders been given the opportunity to participate in consultations, through a transparent and open consultation process?			
Did all interested and affected parties and relevant stakeholders receive sufficient information about the planned measure, in a timely manner?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Have the relevant communications with authorities, regarding the screening and scoping processes, been noted?			
Were the contributions, inputs and concerns raised during consultations included in the report?			
Did the consultation and notification processes follow the legally required or recommended processes by OKACOM and / or the national authorities of the respective countries?			
Description of the planned measure			
Did the report clearly define the location, geographic extent and size / scale of the planned measure, with the aids of appropriate maps or figures?			
Were the nature / purpose and objectives of the planned measure clearly stated and motivated?			
Has the timeframe and timetable of each phase of the planned measure been identified?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Assessment of alternatives			
Was the no-action alternative considered, and the evolution scenario in the absence of the planned measure been analysed?			
Besides the no-action, were appropriate alternatives considered in the scoping report?			
Description of the environment			
Were the areas likely to be significantly impacted by the implementation of the planned measures identified?			
Were the biophysical components of the environment likely to be affected identified and described in sufficient detail?			
Were the socioeconomic components of the environment likely to be affected identified and described in sufficient detail?			
Was the baseline data collected appropriate and sufficient?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Does the report identify the key issues of concern relevant to the planned measure?			
Identification of key effects			
Have the direct, indirect, cumulative, and transboundary potential effects of implementing the planned measure been identified?			
Have the environmental, health and socio-economic potential impacts of implementing the planned measure been identified?			
Does the report provide a brief description of the nature, duration, magnitude, extend and significance of the potential impacts?			
Does the report provide possible mitigation measures?			
Does the report provide possible monitoring measures?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Terms of Reference for EA report			
Does the report include the Terms of Reference for the EA report?			
Non-technical summary			
Does the report provide a non-technical summary which is accessible and easy to read?			
Does the summary contain a brief description of the planned measure and the environment?			
Does the summary identify the main potential impacts of the planned measure?			
Does the summary outline the inputs and concerns raised during consultations?			

Summary evaluation form of scoping report

Area / Evaluation	Rate (C / A / I)	Comments
Methodology		
Notification and consultation process		
Description of the planned measure		
Assessment of alternatives		
Description of the environment		
Identification of key effects		
Terms of Reference for EA report		
Non-technical summary		

Conclusion of evaluation process

Overall, the Scoping Report is graded as (select the appropriate grade):

Grade	Grade description	Selected classification
Excellent	The Scoping Report contains every necessary information required for decision-making.	
Good	The Scoping Report contains most of the information required for decision-making. Contains relatively minor gaps.	
Satisfactory	The Scoping Report provides incomplete information and significant omissions. Nonetheless, given the scope of the planned measure, it is still possible to decide on the viability of the planned measure, and in which terms.	
Inadequate	The Scoping Report provides incomplete information and significant omissions. Given the scope of the planned measure, additional information is necessary to allow decision-making.	
Poor	The Scoping Report does not provide the required information. Additional information is necessary JFÇÇto allow decision-making.	

Annex VI – Indicative check list for evaluating a SEA report

Checklist for evaluating a SEA Report

This document provides an indicative checklist to assist the evaluator in the process of assessing a SEA Report, in which regards its quality. The evaluation forms provide the main areas to be evaluated and the respective key questions to be assessed within each area. The evaluator should rate each area and key question, according to the following criteria:

- **A:** No fundamental flaws or inadequacies.
- **B:** Fundamental gaps and inadequacies.
- **C:** Insufficient basis to judge.

Details of planned measure

Planned measure	[Type and name]
Location	[Country and precise location]
Author of SEA Report	[Name of company]
Date of completion of SEA Report	[Date, as mentioned in SEA Report]

Details of evaluator

Evaluator	[Name, entity if applicable]
E-mail address	[E-mail address of evaluator]
Date of evaluation	[Date of completion]

Evaluation form of SEA report: Compliance review

Key questions / Evaluation	Yes / No	Rate (A / B / C)	Comments
Preliminary assessment			
Does the report explicitly identify the SEA as an impact or policy centred SEA?			
Does the report mention the screening process employed to determine the need for SEA?			
Were all interested and affected parties and relevant stakeholders identified and their engagement planned?			
Detailed analysis			
Was there a scoping process to identify issues and impacts?			
Was the baseline information collected appropriate and sufficient?			

Key questions / Evaluation	Yes / No	Rate (A / B / C)	Comments
Have the direct, indirect, cumulative, and transboundary potential effects of implementing the planned measure been identified and analysed?			
Were different alternatives analysed, including the no-action alternative?			
Does the report identify measures to enhance opportunities and mitigate adverse effects?			
Was the SEA subject to an independent review?			
Was there a preparation process for the SEA report?			
During the preparation process, was a draft SEA report elaborated?			

Key questions / Evaluation	Yes / No	Rate (A / B / C)	Comments
Was the public engaged during the elaboration of the draft SEA report? Were their comments and concerns included in the report?			
Decision-making and implementation process			
Did the SEA make recommendations to decision-makers?			
Were provisions made to monitor the implementation of the planned measure?			

Evaluation form of SEA report: Technical quality review

Key questions / Evaluation	Yes / No	Rate (A / B / C)	Comments
Presentation, usefulness, and quality of information			
Does the report describe the purpose of the SEA, and mentions the necessary and applicable regulations?			
Is the scope of the SEA discussed?			
Was the information provided by the SEA process adequate for those responsible for developing the planned measure?			
Was the information provided by the SEA process adequate for key stakeholders?			
Were the issues most important to sustainable outcomes been identified?			
Did the report reflect questions and concerns not initially included in the plan, programme, or policy?			

Key questions / Evaluation	Yes / No	Rate (A / B / C)	Comments
Co-operation and stakeholder participation			
Was there co-operation between the SEA developers and those responsible for implementing the planned measure?			
Were opportunities created for public and stakeholder engagement?			
Was there an effort to involve less powerful stakeholders in the consultation process?			
Assessment of environmental impacts			
Were the likely environmental effects and opportunities clearly described?			
Was the methodology employed to assess environmental impacts described?			
Were both positive and adverse impacts addressed?			

Key questions / Evaluation	Yes / No	Rate (A / B / C)	Comments
Were the assumptions, limitations, gaps, and constraints of the study clearly stated?			
Were mitigation measures clearly described and recommended to prevent and mitigate any significant adverse effects on the environment?			
Does the SEA address the trade-offs and linkages between environmental, social, and economic considerations?			
Consideration of alternatives			
Are the potential alternatives, including the no-action alternative, for the planned measure described and considered in terms of the SEA objectives?			
Have the reasons for rejecting a certain alternative been provided?			

Key questions / Evaluation	Yes / No	Rate (A / B / C)	Comments
Planned follow up activities and implementation			
Were the indicators for monitoring the implementation of the planned measure clearly defined? Were they based on the objectives of the planned measures and the SEA?			
Were recommendations for the implementation process clearly stated?			
Was an evaluation plan established to monitor the implementation of the plan (with adequate budget and clearly assigned responsibilities)? Were outcome indicators defined?			

Summary evaluation form of SEA report

Area / Evaluation	Rate (A / B / C)	Comments
Compliance Review		
Preliminary assessment		
Detailed Analysis		
Decision-making and implementation process		
Technical quality		
Presentation, usefulness, and quality of information		
Co-operation and stakeholder participation		
Assessment of environmental impacts		
Consideration of alternatives		
Planned follow up activities and implementation		

Conclusion of evaluation process

Overall, the quality of the SEA Report is graded as (select the appropriate grade):

Grade	Grade description	Selected classification
Excellent	The SEA contains elements that are excellent and therefore provide a template for future SEAs.	
Good / Satisfactory	The SEA does not contain fundamental flaws nor inadequacies.	
Inadequate	The SEA contains fundamental gaps and inadequacies.	
Insufficient	Insufficient basis to judge.	

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Annex VII – Indicative check list for evaluating an EIA report

Checklist for evaluating an EIA Report

This document provides an indicative checklist to assist the evaluator in the process of assessing an EIA Report, in which regards the elaboration process and its content. The evaluation form provides the main areas to be evaluated and the respective key question to assess within each area. The evaluator should rate each area and key questions, according to the following criteria:

- **(C) Comprehensive:** All necessary information is provided, and no additional information is required.
- **(A) Adequate:** The information provided is incomplete, but sufficient to assess the planned measure.
- **(I) Inadequate:** The information provided is insufficient to assess the planned measure and additional information is required.

Details of planned measure

Planned measure	[Type and name]
Location	[Country and precise location]
Author of EIA Report	[Name of company]
Date of completion of EIA Report	[Date, as mentioned in EIA Report]

Details of evaluator

Evaluator	[Name, entity if applicable]
E-mail address	[E-mail address of evaluator]
Date of evaluation	[Date of completion]

Evaluation form of EIA report

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Methodology			
Were the assumptions, limitations, gaps, and constraints of the study clearly stated?			
Does the report clearly explain the methodology used in the EIA and public participation processes?			
Were consultations with interested and affected parties and stakeholders, in the context of the EIA, been held?			
Were capacity building programmes required to enable informed stakeholder involvement and are they described in the report?			
Were the contributions, views and concerns of stakeholders been incorporated in the EIA report?			
Does the report list all interested and affected parties and stakeholders consulted?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Were the relevant regulations, policies and legislation of the origin country been stated?			
Have the relevant international protocols, conventions and agreements been stated, with reference to how these obligations have and will be met?			
Does the EIA report comply with the Terms of Reference?			
Description of the project			
Have all project components been described?			
Was a life cycle analysis performed?			
Have the technologies to be used been described?			
Have the social issues related to the project been described?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Have the sources, types and quantities of waste generated during different scenarios for construction and operation been estimated?			
Has a risk assessment been performed?			
Have the waste disposable associated with the project's implementation been addressed?			
Were the nature and quantities of materials needed during construction and operation, clearly indicated?			
Have the sites from where these materials will be sourced been identified and assessed in terms of impacts?			
Have the impacts of transportation of all materials, personnel, and visitors to the project site during construction and operation been assessed?			
Has the timetable of each phase of the project been identified?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Assessment of alternatives			
Was the no-action alternative considered and the evolution scenario in the absence of the project been analysed?			
Besides the no-action, were appropriate alternatives considered in the EIA report? If so, were their environmental impacts compared with those of the proposed project?			
Description of the environment			
Were the areas likely to be significantly impacted by the implementation of the project indicated, with the aid of maps?			
Were the biophysical components of the environment likely to be affected identified and described in sufficient detail?			
Were the socioeconomic components of the environment likely to be affected identified and described in sufficient detail?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Was the baseline data collected appropriate and sufficient?			
Description of impacts			
Have the direct, indirect, cumulative, and transboundary potential effects of implementing the project, at its different stages, been identified?			
Have the environmental, health and socio-economic potential impacts of implementing the project, at its different stages, been identified?			
Does the report describe the nature, duration, magnitude, extend and significance of the identified impacts?			
Does the report assess the impacts in terms of whether they are short, medium, or long term; temporary or permanent; reversible or irreversible?			
Were impacts measured in quantitative terms, when possible?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Has the significance of effects been measured (either quantitatively or qualitatively) and discussed?			
When possible and available, has the significance of impacts consider the appropriate national and international standards?			
Consideration of mitigation and monitoring measures			
Were measures to mitigate each negative impact recommended?			
Is the effectiveness of the proposed mitigation measures discussed?			
Were the likely costs of mitigation discussed and compared with the benefits?			
Has an environmental management plan been proposed, detailing how the mitigation measures will be implemented over time?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Where monitoring measures proposed to follow-up the environmental impacts resulting from the implementation of the project?			
Non-technical summary			
Does the report provide a non-technical summary which is accessible and easy to read?			
Does the summary contain a brief description of the project and the environment?			
Does the summary identify the main issues and impacts of the project, and the mitigation measure to be undertaken?			
Does the summary include a brief explanation of the approach employed in the EIA?			
Does the summary outline the inputs and concerns raised during consultations?			

Key questions / Evaluation	Yes / No	Rate (C / A / I)	Comments
Does the summary indicate whether the project is environmentally acceptable?			

Summary evaluation form of EIA report

Area / Evaluation	Rate (C / A / I)	Comments
Methodology		
Description of the project		
Assessment of alternatives		
Description of the environment		
Consideration of mitigation and monitoring measures		
Non-technical summary		

Conclusion of evaluation process

Overall, the EIA Report is graded as (select the appropriate grade):

Grade	Grade description	Selected classification
Excellent	The EIA Report contains every necessary information required for decision-making.	
Good	The EIA Report contains most of the information required for decision-making. Contains relatively minor gaps.	
Satisfactory	The EIA Report provides incomplete information and significant omissions. Nonetheless, given the scope of the project, it is still possible to decide on whether the project should be allowed to proceed.	
Inadequate	The EIA Report provides incomplete information and significant omissions. Given the scope of the planned measure, additional information is necessary to allow a decision, on whether the project should be allowed to proceed, to be made.	
Poor	The EIA Report does not provide the required information; thus, the project should be rejected.	