

# Good Strategic Environmental Assessment (SEA) Practices in Developing Nations: Based on Japan's Support Experiences in Eastern and Southern Africa

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## 要旨

戦略的環境アセスメント (SEA) は、大規模な開発の計画の初期段階で行われる環境アセスメントとして、開発援助においても実施が試みられるケースが増えつつある。SEA の目的は、少ない情報を効率的に集め、環境面や社会面に配慮しながら開発の大きな方向性を示すことだが、経済、社会、文化等、国や地域を取り巻く背景は多様であり、対象となる国や地域の事情に応じた柔軟なアプローチが求められる。本研究では、過去の、日本のアフリカ諸国に対する開発援助の事例から、SEA を効果的に実施するための知見を抽出し、その意義について考察する。

## Abstract

The potential usefulness of the Strategic Environmental Assessment (hereinafter referred to as SEA) approach for the decision-making and broad consensus-building process of regional and/or nation-wide development master plan (hereinafter referred to as MP) studies has been recognized in many nations recently. In Africa, SEA practice is at the rudimentary stage, and several nations such as Tanzania and Kenya started to apply this approach around the end of 2000s for the delineation of their long- and medium-term development MPs.

SEA practice and its legal framework, developed in the European Union (hereinafter referred to as EU) region is the most advanced across the world. However, its direct export/or transfer to developing regions such as Africa is not straightforward due to the complicated socio-cultural backgrounds and differences (e.g., diverse, multi-ethnorracial, and multi-linguistic societies) among these regions.

In Japan, several pilot study-based SEA practices have been initiated mainly by the Ministry of Environment recently. Under this situation, it is notable that Japan International Co-operation Agency (hereinafter referred to as JICA)'s environmental guidelines, used for the implementation of proper environmental and social considerations for Japan's Official Development Assistance (hereinafter referred to as ODA) projects, incorporated SEA concepts therein, and started its actual application after the year 2010. The number of SEA practices within Japan's ODA is increasing, but there are no consolidated SEA procedures owing to the diverse political and social backgrounds of each ODA recipient nation concerned, and a SEA approach, suitable for Japan's ODA projects in developing nations, is still under consideration.

Based on the review of the recent legalization process of SEA in several African nations and the latest SEA practices conducted therein, issues to be addressed for better future SEA practice are summarized, and then, fundamental directions for possible ways of Japan's interaction and/or support to achieve more practical and efficient SEA practices in developing nations through Japan's ODA projects are summarized.

Key words: SEA, Master Plan Development, ODA, Developing Nations, Kenya, Tanzania, Mozambique, Stakeholder-centered SEA, Consensus-centered SEA

## 1. Introduction

### 1.1 SEA in the EU, WB, and JICA

Recently, several African nations, with vast

amounts of mining potential, have started to experience unprecedented levels of economic growth, exposing the region to a wide range of development

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opportunities and challenges. A range of policy reforms and development plans and programs are being undertaken to meet these challenges, especially in resource- and environment-intensive sectors, and the usefulness of SEA has begun to be recognized among these nations around the early 2000s although many nations therein still lack the capacity to assess the sustainability and implications of projects and strategies.

SEA of Public Private Partnership (hereinafter referred to as PPP) projects is a rapidly evolving field. SEA aims to integrate environmental considerations into PPP and evaluate the inter-linkages with economic and social considerations. The Organization for Economic Cooperation and Development (hereinafter referred to as OECD)'s Development Assistance Committee (hereinafter referred to as DAC) summarizes the following benefits, which are gained by applying SEA to the development cooperation:

- It can:
- provide the environmental evidence to support more informed decision-making.
  - identify new opportunities by encouraging a systematic and thorough examination of development options.
  - prevent costly mistakes, by alerting decision-makers to potentially unsustainable development options at an early stage in the decision-making process.
  - build stakeholder engagement in decision-making for improved governance.
  - safeguard environmental assets for sustainable development with poverty reduction.
  - facilitate trans-boundary co-operation around shared environmental resources and contribute to conflict prevention.

Source : OECD (2006)

Most large-scale development assistance activities have been started after World War II, and then, conflicts among various stakeholders, due to involuntary resettlement and/or land acquisition started to occur frequently. Eventually, the incorporation of appropriate environmental and social considerations within the entire project cycle of any infrastructure development works becomes one of critical issues

donors and recipient countries must face.

Within the development assistance framework, mainstreaming of the environment starts at the project level as the Environmental Impact Assessment (hereinafter referred to as EIA). EIAs are intended to improve the project design and its implementation by identifying ways to prevent, mitigate, and compensate possible adverse environmental impacts at the feasibility study stage.

However, due to the poor liaison and disorganized relevant information sharing system among competent governmental agencies and/or organizations in some nations, the build-up of project and/or plan consensus is sometimes difficult, and causes conflicts among relevant stakeholders.

To overcome these situations, there is a growing recognition for the need to consider the environmental implications of regional and sectoral development plans at the macro level. The objective of the SEA is to mainstream environmental and social considerations into PPP at the early formulation stage and to mitigate negative implications and maximize potential positive synergies through the precipitation of information sharing and discussions among relevant stakeholders. Major SEA-related research studies were conducted in the 1990s in each nation of the EU region, one of the most advanced SEA-implementing areas in the world; subsequently, the European Commission (hereinafter referred to as EC)'s SEA Directive came in force in 2001 and was applied to a wide range of public plans and programs (e.g. on land use, transport, energy, waste, agriculture, and others). It should be noted that this SEA Directive does not refer to policies. The potential usefulness of the SEA approach for the decision-making process of regional and/or nationwide development MP studies has been recognized in many EU nations recently.

The World Bank (hereinafter referred to as WB)'s Environment Strategy (adopted in July 2001) includes the more systematic use of SEA in WB operations to promote mainstreaming of the environment by

influencing planning and decision making processes at an early stage. In addition, there is a wide range of different interpretations and applications of SEA in use around the world, mainly in OECD nations.

The evolution of SEA at the WB mirrors its evolution in the global context. The Bank’s application of SEA initially arose directly from a policy requiring environmental assessment in all investment projects and providing for the use of sectoral or regional environmental assessment in specific contexts. In 1999, the requirement was extended to sectoral adjustment loans, for which SEA was often the tool of choice<sup>1)</sup>.

The WB’s Environment Strategy, approved by the Bank’s Board of Directors in 2001, recognized SEA as a key means of integrating environment into the sectoral decision-making and planning process at the early stages, and made a strong commitment to promote the use of SEA as a tool for sustainable development. In July 2004, the Bank’s Board approved an updated policy on development policy lending, OP/BP 8.60. This new policy emphasizes upstream analytical work—such as SEA, country environmental analysis, and other analyses done by the Bank, the client country, or third parties—as a source of information for analyzing the likely significant effects of an operation on the borrowing country’s environment and natural resources, and for assessing

the country’s institutional capacity for handling these effects.

JICA’s Guidelines for Environmental and Social Consideration (hereinafter referred to as JICA Guideline), applied to all JICA-funded projects, also requires relevant SEA studies for certain types of MP studies. As of October 2015, there is no specific description of SEA requirements in this guideline, and JICA continues to seek out appropriate SEA models tentatively. Table 1 summarizes the current SEA implementation status of the EC, WB, and JICA.

### 1.2 Spreading of SEA in Africal

In Africa, several nations started to have national SEA legislation. In general, the SEA practice in Africa is at a rudimentary stage although the number of counties practicing SEA is increasing. Several nations such as Tanzania and Kenya started to apply this approach around the end of the 2000s for the development of their long- and medium-term development MPs.

Most basic SEA-related legal frameworks in African nations were established with the support of OECD, in particular, EU nations. However, due to the complicated socio-cultural backgrounds across Africa, it is not instilling an EU-based SEA approach therein is not a straightforward process. Instead, several African nations try to use various approaches tentatively in

**Table 1 Summary of SEA Implementation Framework**

	EC	WB	JICA
Major Guideline/ Directive	Directives of Strategic Environmental Assessment (Directive/42/EC)	World Bank’s environmental safeguards policy OP 4.01OP/BP 8.60 Development Policy Lending	JICA Guidelines for Environmental and Social Considerations (2010)
Current SEA application status	Mandatory for public plans and programs (e.g., agriculture, forestry, fisheries, energy, industry, transport, waste water management, telecommunications, tourism, town & country planning, or land use and which set the framework for future development consent of projects listed in the EIA Directive.), but do not refer to policies.	SEA is applied in the following four types of WB’s activities, 1. Environmental Assessment Policy and Safeguard Policies 2. Analytical and Advisory Services. 3. Capacity Building and Training. 4. Development Policy Lending	Applied to JICA-funded MP studies after the year 2010.

order to seek out the most suitable SEA approach that satisfies all stakeholders as much as possible and to build up a broad consensus for the concerned policies, plans, and programs. Most recent SEA practices in Africa focus on how to get key stakeholders involved within the decision-making and/ or MP development processes.

The encouragement of strong public involvement is one key SEA principle, summarized by the OECD (OECD, 2006). Thus, most of the SEA approaches that have been implemented in Africa recently are categorized as “stakeholder meeting”-centered and/ or “public participation”-based, and are compatible with the basic principle of the OECD (more detailed descriptions of recent SEA practices in Africa are summarized in a later section). In other words, SEA practice in Africa is at a transition point and will start to develop its own methodology, reflecting the countries’ complicated multi-ethno-racial, ethno-linguistic, and cultural backgrounds.

The African Development Bank (hereinafter referred to as AfDB) seeks to make SEA mandatory for assessing the impacts of “upstream” operations, such as budget support and investment programs, the preparation of Country Strategy Papers and Regional Integration Strategy Papers, and for policy-based lending operations within the Bank’s new Integrated Safeguards System (ISS). The AfDB is also developing new tools to complement SEA such as a climate change screening tool to be applied to investments in sectors deemed most vulnerable to climate change.

In Japan, a full-fledged SEA law and/or regulations, compatible with those of the EU, has not yet been established, but several pilot study-based SEA practices have been initiated recently. Besides, several local governments have established their own SEA by laws, which is similar to what happened throughout the implementation of EIA Law in Japan. As mentioned earlier, one unique aspect worth noting is that JICA’s environmental guidelines, used for the implementation

of proper environmental and social considerations for Japan’s ODA project, incorporated SEA therein, and started its actual application after Year 2010. SEA practice within Japan’s ODA is increasing, but there is no consolidated SEA procedure owing to the diverse political and social backgrounds of the concerns of each nation, and a SEA approach, suitable for Japan’s ODA projects in developing nations is still under consideration. In other words, it can be said that Japan is seeking its own SEA model and/or approach, suitable for both domestic and international MP studies.

In this paper, recent moves regarding the SEA implementation status (e.g., recent legalization process of SEA and the latest SEA practices) in several emerging nations in Africa are reviewed. Then, based on that review result, fundamental directions for possible ways of Japan’s interaction and/or support to achieve a good, practical and efficient SEA practices in developing nations via Japan’s ODA are summarized. In Section 2, key features and concepts of JICA’s Guideline are explained, and then, possible ways of supporting the decision-making process using Japan’s SEA support model are discussed. In Section 3, recent SEA practices of three East African nations, namely, Kenya, Tanzania, and Mozambique are reviewed. Next, a prototype development process of the SEA-related legal framework of developing nations is presented and the current SEA frameworks of several nations are discussed in Section 4. Finally, several future tasks for the development of a more comprehensive SEA approach are summarized in Sections 5 and 6.

## **2. Japan’s Interaction and/or Support to achieve Good Environmental Governance and Compliance**

### **2.1 Philosophy and Function of JICA’s Environmental and Social Consideration Guideline**

JICA’s Guideline has several key contexts for realizing sustainable development in developing

countries. First, the Guideline makes it clear that *“the inclusion of environmental and social costs in development costs is crucial for sustainable development as well as institutional framework that makes such inclusion possible.”* This shows why JICA needs the guideline. Environmental and social costs should be figured out before implementation of a major development project. This also means that environmental and social costs as externalities from development activities will be internalized through the environmental and social consideration process. Second, it points out that *“democratic decision-making is indispensable for environmental and social considerations.”* Developing countries’ governments often lack a democratic decision making process. If it is required for better environmental and social considerations, JICA needs to cooperate with the recipient government and provide support to make its decision democratic. Third, stakeholders’ participation and information transparency are very important for a democratic decision-making process. Therefore, *“the measures for environmental and social considerations are implemented by ensuring a wide range of meaningful stakeholder participation and transparency of decision-making, as well as by working for information disclosure and by ensuring efficiency.”* (see the extracts from the Guideline below)

In order to ensure that the Environmental and Social Consideration proceed in a better manner, not only

the government but also the local residents including indigenous people, business people, and NGOs, should be given enough opportunity to offer their opinions to the public. Relevant information should be disclosed as much as possible so that all these stakeholders can share sufficient information each other. The government should provide a satisfactory response to the inquiries from the stakeholders and the public. Although the environmental and social consideration process originally takes much time, this procedure should be done in an efficient manner with sufficient respect for human rights.

Reviewing the conceptual foundation of the JICA Guideline above, it can be assumed that the Guideline is changing the relationship among the relevant players. JICA’s environmental and social consideration is trying to approach the citizens of the recipient country. ODA used to be conducted between two governments or between the recipient government and international organizations. The stakeholder meeting will promote communications between the government and the citizens of the recipient country. This process might bring about some functions that will change the governance of the recipient country.

## 2.2 Possible Ways of Supporting the Decision-making Process using Japan’s SEA Support Model

JICA has recognized that SEA is necessary so that

### Policy of JICA Environmental and Social Consideration

JICA, which is responsible for ODA, plays a key role in contributing to sustainable development in developing countries. The inclusion of environmental and social costs in development costs and the social and institutional framework that makes such inclusion possible are crucial for sustainable development. Internalization and an institutional framework are requirements for measures regarding environmental and social considerations, and JICA is required to have suitable consideration for environmental and social impacts.

Democratic decision-making is indispensable for environmental and social considerations. It is important to ensure stakeholder participation, information transparency, accountability, and efficiency, in addition to respect for human rights, in order to conduct an appropriate decision-making process.

In this context, with respect to human rights and in view of the principles of democratic governance, the measures for environmental and social considerations are implemented by ensuring a wide range of meaningful stakeholder participation and transparency of decision-making, as well as by working for information disclosure and by ensuring efficiency. Governments bear the responsibility for accountability, but at the same time stakeholders are responsible for their comments.

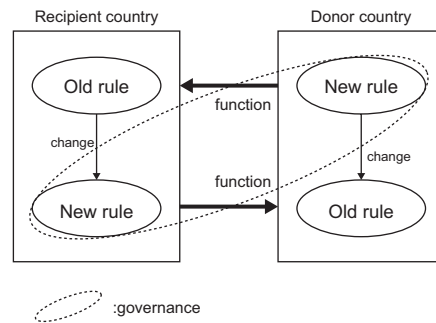
source : JICA(2010)



it can screen major environmental and social errors at an earlier stage of a development activity. However, there is no standardized process in place yet. Since the two guidelines, JBIC Guidelines for Confirmation of Environmental and Social Considerations and JICA Guidelines for Environmental and Social Considerations, were integrated in 2010, JICA has tried to find out an appropriate process by taking different approaches for each project. Even though the SEA process has not been settled clearly so far, the communication and discussion among the major players will enable the promotion of the future settlement of the SEA support model. The environmental and social consideration advisory committee will be the key function to stimulate the recipient country to ensure stakeholder participation and information transparency with respect to human rights and in view of the principles of democratic governance.

Generally, it is recognized that good governance within a country can enhance effective economic transactions and equity among society. Since the environmental and social consideration process in ODA is an international transaction, a broader framework is needed so that more than two countries can solve the underlying inter-governmental issues or local problems that are beyond individual nations.

Figure 1 shows an image about the function of



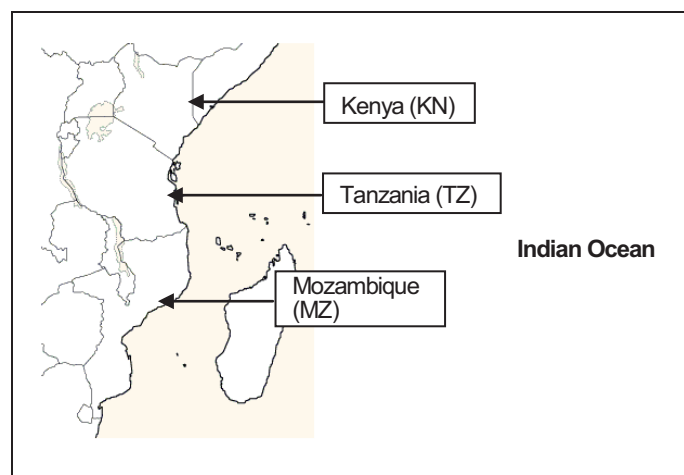
**Figure 1 Mutual Function of Institutional Change**  
source : Ninomiya (2011)

the JICA Guideline toward the change of the rules between two countries. The Guideline publication means the change of the rule in the donor country. It influences the rule of the recipient country and changes the process of environmental and social consideration. The interactive function between the two countries to share the new rules can be defined as “environmental and social consideration governance” The reason being that since the change takes a certain amount of time, an appropriate procedure is required to accelerate the adaption. Stakeholders’ participation and information transparency should be the key context.

### 3. Review of SEA Practices in the Eastern and Southern Africa Region

#### 3.1 Background

As mentioned earlier, SEA in developing nations including Africa and South-East Asia is increasingly being formalized in legislation and with government



**Figure 2 Nations Selected for Review of their SEA Practices**

**Table 2 Major Social and/or Economic Indices of Kenya, Tanzania, and Mozambique**

	2012 GDP (10 <sup>9</sup> USD) <sup>*1</sup>	2011 Corruption Perceptions Index, CPI <sup>*2</sup>	UN Gini Coefficient <sup>*3</sup>
KN	41.12	2.2	42.5
TZ	28.15	3.0	34.6
MZ	14.6	2.7	39.6

Source<sup>\*</sup>: <sup>1</sup>[http://ecodb.net/ranking/imf\\_ngdpd.html](http://ecodb.net/ranking/imf_ngdpd.html), <sup>2</sup>[http://ecodb.net/ranking/imf\\_ngdpd.html](http://ecodb.net/ranking/imf_ngdpd.html) CPI 2011 Table, Transparency International, 2011, and <sup>3</sup>[http://ecodb.net/ranking/imf\\_ngdpd.html](http://ecodb.net/ranking/imf_ngdpd.html) UNDP, Human Development Report, 2006

institutions responsible for its application. There is no single approach or a “one-size-fits-all” approach to SEA. It needs to be tailored to the context, depending on, for example, whether it is being applied to an abstract policy or concrete plan, the time and data available, whether it is addressing the environment only or is dealing also with social and economic dimensions in an integrated manner, and how it can be ‘fitted’ to support a country’s policy and planning processes.

In this section, some emerging nations, namely, Kenya, Tanzania, and Mozambique, in the Eastern and Southern Africa region are selected (see Figure 2), and then, a comparative study is conducted based on the review of the current SEA implementation status in each nation.<sup>2)</sup> The pace of development activities in these three African nations is notable, compared with those of South-East Asia and the environmental legal system of each nation is trying to catch up with the speed of development activities therein. Table 2 summarizes the major economic and social indicators of these three nations.

### 3.2 Brief Summary of Development Path after Independence

The three nations are located along the Indian Ocean. Due to the huge mining potential for gold, diamonds, coal, iron, uranium, nickel, natural gas, and other minerals of these regions, international and domestic private investments started to flow in the early 2000s and have tended to grow further. Before WWII, Kenya and Tanzania were colonized by the British and Mozambique by the Portuguese. After WWII, Kenya became independent in 1962, Tanzania in 1961, and

Mozambique in 1975. After gaining independence, each nation developed its own development strategies.

In Kenya, rapid economic growth was promoted through public investment, encouragement of smallholder agricultural production, and incentives for private, often foreign, industrial investment in the beginning. A major program of economic reform and liberalization began in 1993. The current economy in Kenya is market-based, with a few state-owned infrastructure enterprises, and it maintains a liberalized external trade system. The country is generally perceived as the eastern and central African hub for financial, communication, and transportation services. Kenya’s Vision 2030 was launched in 2007 to guide the nation’s economic growth path. Supported by economic, social, and political pillars, the plan aims for Kenya to maintain an economic growth rate of 10% annually between 2012 and 2030. Vision 2030’s economic pillar highlights sectors critical to Kenya’s success, including agriculture, manufacturing, infrastructure, financial services, and business process outsourcing. Within each sector, it identifies flagship opportunities to promote foreign and domestic investment, employment opportunities, and value-added products.

In Tanzania, socialist economic policies were adopted after independence, resulting in severe economic decline in later years. The state controlled the economy and owned all of the major enterprises. Beginning in 1986, the government of Tanzania embarked on an adjustment program to dismantle the socialist (Ujamaa) economic controls and encourage more active participation of the private sector in the economy. Currently, Tanzania has a favorable attitude

toward foreign direct investment (hereinafter referred to as FDI) and has made efforts to encourage foreign investment.

When it gained independence, Mozambique's industrial base was well developed by Sub-Saharan Africa standards. However, further industrialization was stopped by the hasty exodus of 90 percent of its ethnic Portuguese citizens during and after the independence process, which left the Mozambican economy in a state of disarray. The situation was exacerbated by the Mozambican Civil War (1977–1992). The economy of Mozambique has developed since the end of that civil war, but the country is still one of the world's poorest and most underdeveloped. In 1987, the government embarked on a series of macroeconomic reforms designed to stabilize the economy and dismantled the socialist economic system. These steps, combined with donor assistance and with political stability since the multi-party elections in 1994, have led to dramatic improvements in the country's growth rate.

### 3.3 Development and Environment of the Three Nations

Rapid pursuit of infrastructure development in the last decade, commonly found across these three nations as well as in other parts of Africa, have highlighted the need for effective environmental regulation and management of large-scale development projects. While the legislation in these nations is fairly comprehensive, creating regulations

designed to protect all of the varying ecosystems and covering important sectors like environmental impact assessments and waste, its implementation faces a number of very serious problems. One of the most serious problems is a lack of engagement with important community stakeholders. Besides, a misunderstanding by the society at-large of the benefits of the project concerned, due to inappropriate public involvement and/or information disclosure, is also a critical factor in achieving a project consensus among various stakeholders. These serious issues sometime result in little oversight of development projects with potentially huge environmental impacts. As mentioned earlier, these three nations have built up a good knowledge base and systems for EIA implementation but tend to face some difficulties regarding the achievement of the development MP and/or project-consensus.

Although several improvements were introduced in the existing EIA framework, its strengths and weakness began to be understood among various stakeholders, in particular, donors. To overcome such stalemate situations, there is a growing recognition for the need to consider the environmental implications of regional and sectoral development plans at the macro level at the early planning stage; therefore, the configuration of an SEA legal system began around the early 2000s in Africa. Table 3 summarizes the SEA implementation status of these three nations. A more detailed SEA implementation status of each nation is described in the following sections, separately.

**Table 3 SEA Implementation Status in Kenya, Tanzania, and Mozambique**

	SEA- related Law/Regulation, Guideline	Agency in Charge
Kenya	<ul style="list-style-type: none"> <li>• Environmental Management and Coordination Act (EMCA, No.8 of 1999)</li> <li>• Environmental Impact Assessment/Environmental Audit Act (EIA/EA, No.121 of 2003)</li> <li>• EIA Guideline (2003)</li> <li>• SEA Guideline (2012)</li> </ul>	NEMA
Tanzania	<ul style="list-style-type: none"> <li>• Environmental Management Act (G.N. No. 20 of 2004)</li> <li>• Environmental Management Act (G.N. No. 153 of 2008)</li> </ul>	Department of Environment (DoE), Vice President Office
Mozambique	Under Preparation (As of September, 2013)	MITADER (former MICOA)



### 3.3.1 Kenya

The environmental Agency responsible for SEA is the National Environmental Management Authority (hereinafter referred to as NEMA). Kenya's EIA and SEA systems were simultaneously put in place with the enactment of the Environmental Management and Co-ordination Act 1999 (hereinafter referred to as EMCA), and the Environmental Impact Assessment and Audit Regulations that followed in 2003 (see Table 3).

The Kenyan SEA framework is guided by principles of early application, accountability, and open participation. The requirements for SEA are laid out in the EIA and Audit Regulations 2003, and concern the content of the assessment more so than the procedure. Practice has been slow to follow, as per the count of April 2006, which showed that only a few SEAs had been undertaken. However, this number is now on the rise, and in 2012, the National Guidelines for Strategic Environmental Assessment in Kenya (hereinafter referred to as NEMA SEA Guideline) were published by NEMA, wherein more detailed instructions on the SEA steps are described. In this guideline, it is specified that all public policies, plans, and programs be subjected to SEA, and all policy/program/plan owners shall initiate and undertake the SEA. In addition, the importance of effective public participation within the PPP development process is stressed.

In 2013, the governmental organization at both the central and local levels was restructured; more governmental power was de-centralized and transferred to local governments. The County Government Act that was published in 2012 encourages local governments to conduct any regional MP study with a stronger public participation process. It is worth noting that an on-going SEA study of the JICA-funded Nairobi Integrated Urban Development Master Plan Study, initiated in 2012, is being conducted based on both JICA and NEMA SEA Guidelines, while reflecting the public participation directives, specified within the County Government Act since Nairobi City

was re-categorized as one of the important counties in the recent decentralization process implemented in Kenya. Within this SEA study, 72 stakeholder meetings, three workshops<sup>3)</sup>, and one validation meeting<sup>4)</sup>, are to be held during the entire study period.

### 3.3.2 Tanzania

In Tanzania, SEA is required in terms of Part VII of the Environmental Management Act, 2005 (hereinafter referred to as EMA, see Table 3). However, there is no specific description of the SEA procedure within this EMA (2005). Therefore, a new EMA was enacted in 2008 as G.N. No. 153 of 2008. This law consists of eight parts and describes a more detailed SEA study procedure and its approval process. Basically, all MP development studies shall conduct SEA and obtain the approval from the Vice President's Office. The process of the environmental screening is specified in Part III while the ToR (Terms of Reference) development process is in Part IV. A unique feature of the SEA process in Tanzania is that the Department of Environment (hereinafter referred to as DoE), directly reporting to the Vice President's Office, is the key agency, responsible for SEA administration. By this unique structure, DoE becomes more independent than the National Environmental Management Committee (hereinafter referred to as NEMC), agency responsible for EIA administration in Tanzania, so it would be less likely to have any possible external interference and/or effects regarding the decision-making of SEA.

Similar to Kenya, SEA in Tanzania is categorized as a "stakeholder" or "consensus"-centered SEA, and its first application of EMA (2008) is the nation-wide agricultural irrigation MP Study (the MP owner is the Ministry of Agriculture, Government of Tanzania). The SEA of this irrigation MP study developed an intensive stakeholder meeting program across the nation and took almost two years to obtain approval from the DoE (Ministry of Agriculture, personal communication, 2011). The number of SEA practices in Tanzania is constantly increasing, and SEAs of several JICA-funded MP studies are conducted, based

on this EMA (2008).

### 3.3.3 Mozambique

Mozambique does not possess any specific SEA-related legislation yet (see Table 3). The Framework Environmental Act (Act 20 of 1997) stipulates that the issuance of the environmental license, based on the environmental impact assessment, precedes any other licenses and/or permits, required for the implementation of proposed development activities. In addition, the EIA Process Regulations (Decree 45 of 2004) defines rules and procedures of EIA at the project level, and attributes the function of “proceeding with SEA of PPP” to the National Directorate of Environmental Impact Assessment under the Ministry of Land, Environment and Rural Development (former MICOA, hereinafter referred to as MITADER). The draft of an SEA law is now under preparation and is expected to be enacted soon (MITADER, personal communication, 2013).

In the last decade, there have been a few case studies where SEA was applied as incipient methodology, supported by assistance from various donors. Among them, the “SEA for Sustainable Coastal Development Policy in Mozambique (initiated in July 2011 and completed in April 2013)” can be considered as the most substantial case, and is regarded as the pilot SEA study for MITADER while reflecting major study results in the ongoing SEA legalization process. This SEA study targeted all communities, located within 41 districts along the entire coastal provinces of Mozambique, where nearly 70 % of the population is concentrated, with the expectation that such SEA could help overcome a number of shortcomings found in the past project-level EIA studies and better contribute to the prevention of conflict between stakeholders. A series of stakeholder meetings including various workshops, seminars, and community meetings at each district as well as Maputo-based public consultations were held. Within this SEA study, the comparative analysis of three different scenarios<sup>5)</sup> for

sustainable development was conducted, as well as the identification of four “priority areas for action” where conflicts of interest are most prominent regarding land-use among tourism, mining, housing and other purposes.

It is also worth noting that a recent JICA-funded MP study, entitled “Support for Agriculture Development Master Plan for the Nacala Corridor,” is also trying to apply a suitable SEA model in accordance with the country’s context. This study is ongoing (initiated in 2012), and has adopted a “consensus based” approach rather than the “EIA-based” comparison of alternatives by quantitative parameters.

### 3.4 Summary of the Current SEA Framework and Future Directions

SEA is a rapidly evolving field. New approaches and areas of application are emerging all the time, particularly in the fields of development cooperation and international trade. Despite much recent progress, there is still much to do to make SEA effective and more widely applied. Both the UNEP and OECD/DAC initiatives respond to the changes taking place in the agenda for international development and, in particular, the increasing shift away from individual projects toward policy-based lending and sector-level programming. This transition has placed a new emphasis on approaches and tools for strategic environmental assessment, broadly interpreted. It is an ‘upstream’ continuation of a larger, decade-long process of mainstreaming environmental and social considerations into development cooperation.

Recently, there has been a call for more proactive, integrated approaches, notably in the Plan of Implementation of the World Summit on Sustainable Development. It is apparent that the role and methods of SEA are unclear in some quarters. It is also perceived to be too difficult, too time-consuming, too costly, etc. In other circumstances, various methods have been used to assess environmental dimensions and integrate these in the development of

strategies, policies, plans, and programs. However, these approaches have not been called SEA and those involved do not necessarily recognize them as a form of SEA.

As described above, the three nations of the eastern and southern Africa region have been developing their own legal framework of SEA, and Tanzania is the most advanced nation from the viewpoint of the number of SEA practices conducted therein, whereas Mozambique is still drafting its own SEA law although the effectiveness and usefulness of an SEA approach for the MP development is recognized and shared within the competent ministries of Mozambique.

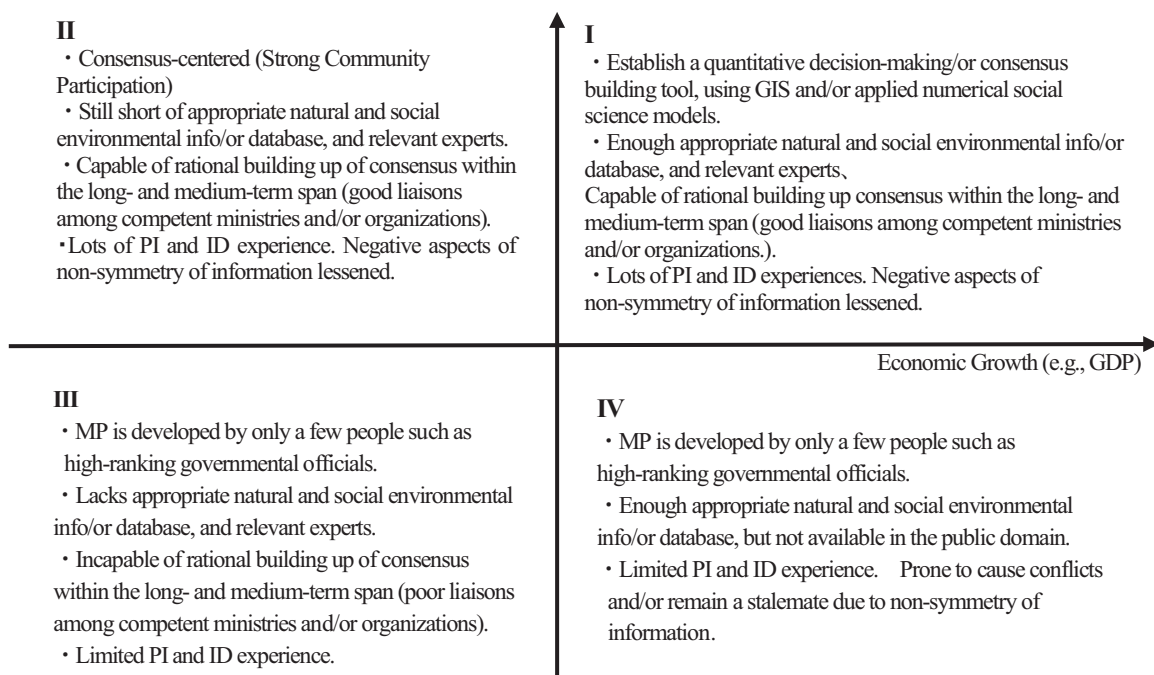
The main objective of SEA, implemented in these nations, is to “proceed” with any MP studies with constructive public participation and/or a stakeholder meeting” process. Recently, the spatial frame of regional MP studies in these nations has shown a tendency to become larger, resulting in the involvement of various stakeholder groups within their public participation process. As a result, the SEA study itself tends to need more time to build a consensus among these stakeholders while the

average budget of SEA study for a major MP study is skyrocketing. In other words, the next task to be addressed for a successful SEA approach in these developing nations is how to build up a consensus among the various stakeholders smoothly without designing a pompous public involvement program. As mentioned earlier, SEA practices in Africa including these nations are evolving, and SEA studies in recent MP development processes therein are undertaking various approaches tentatively in order to make their own SEA framework better fit each nation’s context. In the next section, the evolution dynamics of the SEA legal framework is discussed.

#### 4. Evolution of the SEA Legal Framework in Developing Nations

##### 4.1 Categorization of SEA Legal Framework Status

Based on a review of SEA practices and the relevant legal framework of several nations across the Eastern and Southern Africa region, discussed in the previous section, it is found that each nation takes its unique style/or path to make their SEA suitable for their people, and their improvement efforts are ongoing



**Figure 3 Categorization of SEA-based Decision-Making and/or Consensus Building Process within Infrastructure Development**

(i.e., dynamic to evolve further). Figure 3 shows a conceptual image regarding the status of SEA practice in each nation in terms of the legal framework and economic indicators such as GDP.

In this figure, the vertical axis indicates the achievement level of the environmental governance regarding the entire SEA framework, or the progress of democratization (e.g., a kind of CPI, listed in Table 2), and the nation concerned can be categorized into one of four quadrants, i.e., **Quadrants I and II**, representing nations with both good governance and a significant contribution from the general public to consensus-building and/or decision-making of any development strategies and/or MPs; **Quadrant III**, representing most of the developing nations that have already established a proper environmental legal system but whose enforcement is weak; and **Quadrant IV**, representing some developed nations such as Japan, that have already established enough social capital with an incomplete legal framework due to a strong bureaucracy. The horizontal axis indicates the national wellness such as the degree of economic development (e.g., GDP and/or GINI Index, listed in Table 2).

Using this figure, the following three major development paths regarding the consensus-build up and/or decision-making process of long- and medium-term development strategies and/or MPs in developing nations are discussed.

**Path 1: III → II → I**

This is a typical path, observed within the establishment process of the environmental framework within most of the developing nations. As mentioned earlier, most of the environmental frameworks in African nations have been established on the basis of reputable international environmental guidelines and/or directives. These legal improvements and/or imports have been conducted within a relatively short term (e.g., several years after independence). Thus, concepts and principles of these legal systems seemed to be new (i.e., unfamiliar) to African nations so that

the entire capacity to handle these systems is still at the rudimentary stage.

However, due to the rapid democratization and strong public participation with constructive information disclosure across the continent in recent times, the importance of SEA started to be recognized around the early 2000s<sup>9</sup>. SEA developments in several African nations such as Kenya, Tanzania, and Mozambique take this path, and are currently at Quadrant II.

There is still a possibility that the second-step transition of this path (i.e., II → I) may not happen due to the great advances in the transparency, accountability, and governance by SEA administrators and civic education. In this case, there is another possibility to open a new dimension for SEA in the next generation.

**Path 2: III → IV → I**

This is the case under which economic development surpasses the improvement of the legal system and/or governance. Some of the developed nations such as Japan have achieved significant economic development without a compatible EIA/SEA-related legal framework. As a prerequisite for the successful transition along this path (i.e., path 2: III→IV→I), good transparency, accountability, and governance shall be required. There is still a possibility that the second-step transition of this path (i.e., IV→I) may not happen due to the great advances in the transparency, accountability, and governance by SEA administrators.

**Path 3: III → I**

This is the case in which a comprehensive technical support for the establishment of the entire environmental administration framework including SEA process is guaranteed from the beginning. In this case, transition and/or improvement is to be conducted within a relatively short period, so that a well-organized coordination among infrastructure development, capacity development, and the relevant environmental legal framework design shall be a prerequisite for the successful transition. This transition and/or the paradigm shift would require

a lot of human resources and time, so that, it is quite difficult to achieve through the effort of only one developing country (but it would be relatively achievable with comprehensive support from international communities such as the WB).

As discussed earlier, there are many challenges and/or tasks to improve the SEA legal framework in the pursuit of good SEA practice in each developing nation no matter which path each developing nation follows (e.g., further capacity development, relevant database and/or bank construction, and so on). As of October 2015, three African nations, namely, Kenya, Tanzania, and Mozambique seem to be following Path 1, mentioned earlier. However, it is noted that there are possibilities that the “consensus-centered” SEA process, observed within the ongoing SEA practices of these three nations, would evolve further by properly addressing implementation-related problems (e.g., taking a long time to achieve a complete consensus) and may move into other dimensions. A preliminary categorization of the degree of a nation’s environmental governance attainment is conducted, using several indicators within the next section to examine the validity of this categorization concept.

#### 4.2 Classification of SEA Legal Framework Set-ups

A preliminary quantitative categorization of the degree of a nation’s environmental governance attainment is conducted for several nations, using the following four indicators: EPI<sup>(7)</sup>, Trend EPI<sup>(8)</sup>, ESI<sup>(9)</sup>,

and GDP indices. In this analysis, fourteen nations, namely, Brazil, Cambodia, Cost Rica, Germany, Indonesia, Japan, Kenya, Mozambique, Myanmar, Tanzania, Thailand, UK, USA, and Vietnam are selected for the simplification. It is noted that this preliminary analysis is conducted using log ten values of each EPI, ESI, and GDP values in order to highlight the differences among these nations.

Figure 4 shows the preliminary categorization results, using two parameters—log (132 - EPI) and log (GDP). As shown in this figure, it is found that most of the developed nations such as UK, Germany, and Japan are located around the upper-right parts of each graph whereas the developing nations are around the bottom-left therein. Similar tendencies were observed within the categorization results, using other parameters such as log<sub>10</sub> (146 - ESI) and/or log<sub>10</sub> (132 - Trend EPI). It is noted that the location of Costa Rica, one of the nations with advanced environmental governance is greatly varied, depending on the type of index used. When either EPI or ESI is used, Costa Rica is always located around the upper-left whereas it is located around lower-left with Trend EPI. This kind of index-dependent variation is not recognized for both Myanmar and Cambodia. It is also noted that Tanzania is placed above two other African nations (i.e., Kenya and Mozambique), so that it can be said that Tanzania is somewhat advanced in term of the nation’s environmental governance among three African nations.

Figure 5 shows the correlation between a nation’s

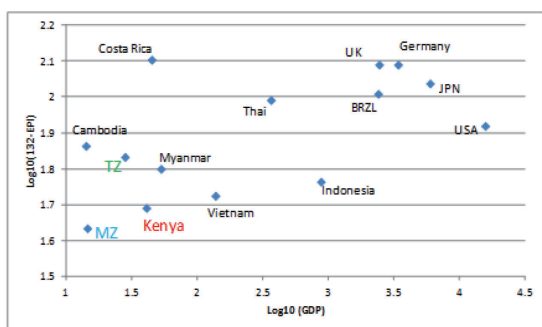


Figure 4 Categorization of Nations’ Environmental Governance (EPI-GDP)

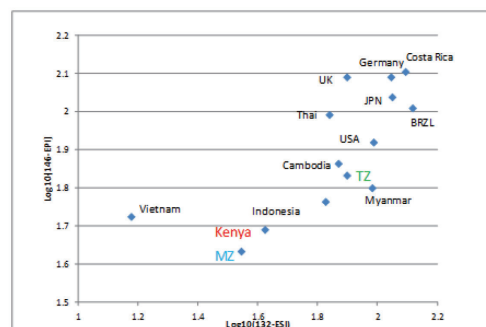


Figure 5 Categorization of Nations’ Environmental Governance (EPI-ESI)



EPI and ESI. As shown in this figure, clear distinctions among each nation are not recognized but most of the plots seem to be located along a somewhat direct proportional line. This may indicate that there would not be a significant difference in the usage of EPI and ESI indices in order to express the ranking of a nation's annual environmental performance within the framework of the proposed hypothesis. It is also noted that a distinction among the three African nations, mentioned earlier, appears clearly, and Tanzania is located around the middle-right whereas both Kenya and Mozambique are still around the lower-left among the three African nations.

Based on this preliminary categorization study, it can be said that it is beneficial to analyze the environmental legal framework and governance through this proposed analytical approach although there are many issues to be addressed to improve its validation and accuracy, to be obtained from the proposed approach. As mentioned earlier, it can be said that Tanzania cannot be categorized into the same group to which both Kenya and Mozambique may belong, from the viewpoint of environmental governance. There are many factors that could have major influences on this preliminary result, and corruption, one of the major issues across the African continent, is incorporated into both EPI and ESI indices.

Corruption in the developing world is one of major issues that the WB, IMF (International Monetary Fund), and other international organizations try to eradicate in order to disseminate "good practices" discipline in both the public and private sectors among these developing nations<sup>10</sup>. In general, the establishment of environmental administrations at each nation is relatively new, compared with the establishment of others such as Ministries in charge of Public Works, Agriculture, Water Resources, National Security and others, and most of the environmental administrations frameworks were established from the early 1980s to the late 1990s with support from some of the advanced nations and/or reputable international

donors such as the WB, covering appropriate capacity building in order to strengthen overall environmental governance. Therefore, the audit and transparency of the environmental administration in most developing nations are in good condition to some extent so far although most of the environmental ministries are facing limited human resources and budgets (e.g., MITADER, personal communication, 2013). This means that variations, recognized in Figures 4 and 5, would occur due to the differences in the environmental governance, compliance, and awareness at both the administration and community level, administration budget and others among these nations, whereas the influence of corruption on the environmental administration does not seem to be significant.

## 5. Discussions

### (1) Gradual Spreading of SEA in the Planning Stage

The effectiveness of SEA at the early planning stages of the PPP formulation process has been proved in many countries. Recently, several African countries such as Kenya, Tanzania, and Mozambique have been trying to integrate the SEA concept within the decision-making process of various development MPs including donor-funded projects, and rapid legalizations of the SEA framework, reflecting each nation's context, are in progress. However, it is also found that the integration of SEA concepts and its methodology is not a simple and straightforward task in these countries where reliable, quantitative, and/or updated socio-cultural and environmental data or information, for example, is not easily available. In addition, local stakeholders with quite a wide range of different social and cultural backgrounds exist, and most recent development MP studies have to pay attention to these stakeholders in order to achieve study consensus among the various stakeholders smoothly.

### (2) SEA Evolution Will Continue

Some modifications and/or devising, or "SEA



evolution” tend to occur within several African nations, in that strong public involvement and/or consensus-building methodologies are developed and applied in order to overcome difficulties, mentioned above, and to find better solutions. Broadly speaking, this “modified approach of SEA,” recognized within SEA studies conducted in these African nations, focuses on the effective use of the existing social capital (and tends to be “stakeholder-centered” or “consensus centered”), supported by a strong public participation process (**Quadrant II** of Figure 3). Several African nations such as Tanzania and Kenya have already started such “consensus-centered” SEA studies, and the number of SEA practices is increasing among these nations. As mentioned earlier, it shall be noted that the possibility exists that this “consensus-centered” type of SEA would develop an individual metamorphosis, that is, it will not take the 2nd-step transition of this path (II →I, see Figure 3) due to the great advances of communications among stakeholder groups who, for example, make use of a visualized approach such as motion pictures to explain growth scenarios concerned, such as transparency, accountability, and governance by SEA administrators and civic education.

### **(3) Integrate Traditional Social Capitals**

As mentioned above, the main objective of SEA, implemented in these nations is to “develop MP with constructive public participation and/or stakeholder meetings.” Therefore, the next issue to be addressed is to how to build up consensus among various stakeholders smoothly. In general, communities and/or tribes in Africa have their unique traditional social capital or philosophy for consensus building such as Ubuntu (e.g., Richard, 2002). When both the temporal and spatial scale of medium- and/or long-term development MP surpasses the their livelihood space (sometimes identical to the limit of their understanding and/or perception), then, it starts to cause some confusion and/or misunderstanding among stakeholders partially, and sometimes leads to an almost never-ending stakeholder meeting process until

the consensus of the MP. A well-balanced integration of traditional social capitals as a means of facilitation, supported by qualified professional facilitators as well, could be a key to effective and efficient consensus building.

### **(4) Challenges for Better SEA Methodology and its Proper Implementation**

Current SEA practices, conducted in the aforementioned three African nations, are categorized as “stakeholder” or “consensus”-centered, and tend to be time demanding and consuming when the concerned areas to be associated with the MP become wider and many stakeholder groups get involved. In general, discussions, held at each stakeholder meeting, seem to be lively and active, and, sometimes, achieving consensus becomes difficult. The order of magnitude of this weakness can be mitigated by selecting qualified facilitators who can lead meetings smoothly with an open and fair attitude. More capacity development for both MP owners and SEA administration of each African nation shall be required in order to pursue a good SEA practice. This weakness, recognized within the current SEA practice and its framework, is expected to be lessened and/or minimized tentatively by gaining both lessons and insights from a series of actual SEA practices to be conducted, eventually leading to improvements for the next generation of SEA.

### **(5) Toward a Future SEA Framework in Japan**

To summarize this discussion, the challenges to further improve the SEA methodology and its proper implementation would include the following issues: i) a more effective (but not excessively resource-consuming) method of consensus building among stakeholders; ii) the use of a visualized and/or more concise presentation materials for constructive interaction with grass-root stakeholders in order to achieve a quick, deep understanding of the entire MP concerned and the resultant constructive discussions; iii) a mechanism of enforcement and follow-up of a SEA-related legal system; and, iv)

a more flexible SEA framework that would make a “long-term discussion and learning platform” possible for the various stakeholders. As discussed so far, there is a palpable stirring of change within the planning process in developing nations and most of the African nations are trying to incorporate SEA within their planning process unlike in Japan. Upon considering the recent planning tendencies observed in Japan, the establishment of a comprehensive SEA framework that would encourage the introduction of a participatory planning process is one of the urgent issues that need to be discussed. Similar to what happened in the legalization of an EIA framework in Japan, the development and consolidation of a SEA legal framework may take place quickly once a relevant legal system is established. At that moment, the knowledge and experience obtained and/or to be collected from SEA practices in developing nations may help to make this transition and/or paradigm shift smooth and robust.

## 6. Conclusions

Even though a rule is changed in a formal way, it still takes a certain amount of time for a change in the informal rules. The establishment of the JICA Guideline has changed the rules of the environmental and social consideration process of Japanese-funded ODA. We need to ask, then, how these rules are enforced and how they may be changed informally<sup>2)</sup>. It is not realistic to expect that the change of the formal rules in the donor country would directly result in a change in economic performance in the recipient country. Economic performance will be influenced not only by private costs and benefits but also by social costs and benefits. If the Japanese government wants to ensure that the new rules are enforced better, it needs to focus on the historical and cultural backgrounds of the recipient country's people and society.

A standardized SEA process can be an effective way for donor countries to approach a recipient country's

people and society with different historical and cultural backgrounds. Working with recipient governments from the earlier stage of the decision-making process, the Japanese government will be able to find more opportunities to include environmental and social costs in development costs and the social and institutional framework that will contribute to make an environment-friendly society in developing countries. In other words, the interactive transaction between donor and recipient regarding environmental and social considerations influence the good governance of the developing countries<sup>3)</sup>.

Most African countries in particular are undergoing rapid economic development and need sufficient support from international society in order to ensure that these development projects are integrated and harmonized within a sustainable growth framework. There are relatively many ongoing development projects in Africa whereas this is not the case in Japan. In other words, there would be many opportunities to initiate more intensive interactions between African nations and Japan through an ODA-based masterplan and/or policy development studies in Africa, and then, to accumulate comprehensive knowledge and wisdoms for better SEA practices in both Africa and Japan for the development of Japan's future SEA model.

## Notes

- 1) See <http://web.worldbank.org/WBSITE/EXTERNAL/ TOPICS/ENVIRONMENT>.
- 2) Both Hayashida and Mori have SEA study experience in these nations.
- 3) A citywide workshop is to be held after a certain number of district-level stakeholder meetings are terminated.
- 4) A validation meeting is to be held for the final explanation of the SEA Final Report.
- 5) Three (3) coastal-region growth scenarios such as (i) Development-oriented, (ii) Conservation-oriented, and (iii) Intermediate of the former two, are used for its relevant assessment within this SEA study (Impacto, personal communication, 2012).
- 6) See Shultz and Weingast (1998) as one of the representative references regarding democracy and good governance.

- 7) Environmental Performance Index (EPI) is a method of quantifying and numerically benchmarking the environmental performance of a nation's policies.
- 8) Trend EPI was developed to rank nations based on the environmental performance changes that occurred during the last decade, enabling one to establish which nations are improving and which are declining.
- 9) Environmental Sustainability Index (ESI) is a composite index published from 1999 to 2005 that tracked 21 elements of environmental sustainability covering natural resource endowments, past and present pollution levels, environmental management efforts, contributions to protection of the global commons, and a society's capacity to improve its environmental performance over time.
- 10) The first WB-funded "Anti-corruption" workshop was held in Uganda in 1994, and the IMF declared its intention to tackle corruption in member countries in 1996 (e.g. World Bank, 1999).
- 11) Japan's EIA Law was enacted in 1997, and it was the last among OECD nations to do so due to interference from several powerful stakeholders such as the former MITI (Ministry of International Trade and Industry). Before this, each provincial government conducted its own environmental administration, mainly based on the "Local Government Act (1947)," comparable to the EIA law of other nations, to ensure a sound local environment (e.g., O'Connor, 1994). However, after the enactment of the EIA Law, the entire EIA framework was established quickly although there are several issues that need to be improved further.
- 12) See North (1990) or North and Weingast (1989) for a detailed discussion regarding institutional change and economic performance.
- 13) Ninomiya examined the relation between environmental and social consideration process and good governance in developing countries. See Ninomiya (2011).

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