



South African Multi-Stakeholder Initiative in Formulating Policy on Dams and Development

LIANE GREEFF, *Programme Manager, Water Justice Africa, Environmental Monitoring Group, PO Box 13378, Mowbray, 7705, South Africa. Tel.: 27 21 448 2881; fax: 27 21 448 2922; e-mail: liane@kingsley.co.za; website: www.emg.org.za.*

ABSTRACT

Following the release of the World Commission on Dams Report in November 2000: “Dams and Development A New Framework for Decision Making” a challenge was issued: “We have told our story: What happens next is up to you”.

In July 2001, South Africa took up this challenge with the hosting of a Multi-stakeholder Symposium on the WCD. At this Symposium, South African stakeholders accepted the core values and approaches and declared themselves to be broadly supportive of the strategic priorities outlined in the WCD report, but believed that the guidelines needed to be contextualised in the South African situation. This resulted in the three-year South African Multi-stakeholder Initiative on the WCD Report, and culminated in the Final Report entitled: *Applying the WCD Report in South Africa*.

This paper will share with the reader both the content of the South African Report as well as the remarkable process that enabled polarised perspectives to reach consensus on a broad range of controversial issues. It is this process which has been internationally recognised as a model for multi-stakeholder participation in policy formulation.

Keywords: Africa; Dams; DDP; Dams and Development Project; Dams and Development; Multi-stakeholder; South Africa; WCD; World Commission on Dams.

Introduction

At the heart of the dams’ debate are issues of equity, governance, justice, power and ecological sustainability. These are the issues that create the complexity and controversy of large dams. What the World Commission on Dams (WCD) provided was a thread of coherence that weaves through the complexity of positions and issues, options and outcomes, and guides us towards making better decisions. That perhaps is the best outcome for which we can hope.

This paper is divided into two main sections. The first section will detail the process of the South African Multi-stakeholder Initiative on the WCD Report (referred to as the SA Initiative throughout this paper). In this first section, the preparations for and hosting of the first Multi-stakeholder Symposium, the development of the analytical approach, and the drafting of the Scoping Report and the Final Substantive Report will be discussed in some detail. Of particular relevance will be the methodology used to ensure equal participation of all relevant stakeholders at the annual Forum meetings and within the Coordinating Committee. Stakeholders at the Forum meetings were mostly South Africans, but representatives also came from neighbouring countries and international stakeholders who were keen to learn from the South African process in order to inform their own national processes, for example, Sweden and Nepal. The first section will be concluded with an outline of the factors that contributed towards the

successes of the SA Initiative and challenges experienced along the way.

The second key section will detail the outcomes of the three-year process with respect to content and a prioritised way forward in South Africa. There will be discussion of the main findings and the priorities selected by South African stakeholders, and we will conclude with progress on the current phase of implementation.

We believe that our process, if taken seriously by governments and other decision makers, will make a valuable contribution towards improving decision-making with respect to large dams and their alternatives in South and Southern Africa in the years to come. We also believe that similar processes in other countries – especially African countries – would be of great benefit to decision-makers in making decisions around large dams and sustainable development in the context of the current emphasis on large dams as the panacea for Africa’s energy needs. This was witnessed at the March 2006 African Ministerial Conference on Hydropower and Sustainable Development.

Part I: The Process of the SA Initiative on the WCD Report

There are many forms of multi-stakeholder processes, and in most cases, one sector is convening a workshop or longer-term process and inviting other sectors to participate. From our experiences, this leads to the organising sector having undue influence

over the agenda and the final results, and precludes the feeling of co-ownership. What made the SA Initiative different from most of the other policy processes undertaken in South Africa to date was that the multi-stakeholder interactions began right at the stage of initial discussions, and continued throughout the analysis, decision-making and finalisation of the process, and into the current phase of implementation. The process was led by a Coordinating Committee, which consisted of representatives from Government, the Development Bank of Southern Africa, environmental and human rights NGOs, dam affected people from three different dams, Public Utilities, Research Organisations and the Private Sector. Stakeholders through this process participated in both procedural issues as well as the content issues. This evoked a sense of co-ownership of the process as well as the outcomes.

Our process tried to provide the opportunities for equalising traditionally unequal power relations and thereby enabling more voices to be heard. This is particularly important in the context of South Africa with our history of *Apartheid*, and the traditionally wide divide between dam-building engineers and dam-affected communities. Whilst this was a step in the right direction, much more work is needed to ensure that more subtle power imbalances are understood and remedied – this is true even for the relationships between resourced NGOs and the dam-affected communities, where by the nature of the interactions the former does have more power, and must be careful not to abuse that power.

The SA Initiative was recognised internationally as a model for multi-stakeholder participation in policy formulation, and therefore we would like to share our process in detail in this paper. This approach that we used in South Africa modelled itself on the WCD multi-stakeholder approach – ensuring all relevant stakeholders are part of the process, trying to balance power relations, using the small committee approach combined with a broader multi-stakeholder forum which met annually. In their analysis of the WCD the World Resources Institute, Lokayan and Lawyer's Environmental Action Team (2001) used the benchmarks of independence, transparency and inclusiveness for examining the process of the WCD. They further elaborated that good process can expand the range and variety of information and perspectives that feed into decision-making and stated that one of the key characteristics of a multi-stakeholder process is its ability to create a broader space for dialogue among stakeholders. Through the WCD's efforts at inclusion, voices that have often been marginalized in the dams' debate were brought to the fore, most notably, those of displaced people. This we tried to emulate in South Africa.

Working together towards the First National Symposium on the WCD March to July 2001

Like many other countries, the dams debate in South Africa had been characterised by polarised positions and a lack of communication between government, the private sector and civil society. The communication that did exist tended to be largely negative and often media based rather than face to face, which increased

the tension between the various stakeholder groupings. The South African promotion of the Lesotho Highlands Water Project had recently highlighted these tensions with numerous articles in the media.

The publication of the WCD final report "*Dams and Development A New Framework for Decision Making*" in November 2000, provided the catalyst for South Africans to re-open the debate. The WCD was particularly important to South Africa as it was Chaired by our then Minister of Water Affairs and Forestry, Professor Kader Asmal who had the combined experiences of social justice through the anti-apartheid movement and that of being a Water Affairs Minister making the difficult decision to build the Katse and Mohale Dams in Lesotho. Secondly, the World Commission on Dams Secretariat was based in South Africa, and made extensive use of Southern African research and researchers. Thirdly, a network of non-governmental organizations working on human rights and environmental issues teamed up with communities affected by large dams, to form national and regional networks, which enabled them to participate more actively in the discussions that developed after the launch of the WCD's final report in London and Pretoria, November 2000. Indeed, at the Southern African Launch of the WCD in Pretoria, members of the SA Water Caucus and NAWISA, the Network for Advocacy of Water Issues in Southern Africa, were calling for a Moratorium on new dams and for a statement of acceptance of the WCD from the SA Department of Water Affairs and Forestry (DWAF). This issue of a moratorium on new dams emerged repeatedly and was one of the issues that the Coordinating Committee did not reach a consensus decision, and therefore the divergent views are reflected in the Substantive Report.

In the early months of 2001 the South African National Commission on Large Dams (SANCOLD) was discussing the need for a national meeting on the WCD. In parallel, the Environmental Monitoring Group (EMG) was discussing the need for a more inclusive approach with the WCD Secretariat, and sent a letter to Minister Kasrils, who had taken over as Minister of Water Affairs and Forestry, requesting a multi-stakeholder discussion of the WCD. A pivotal moment occurred when SANCOLD, DWAF and EMG made the decision that would set the course for the national multi-stakeholder process, to come together and to jointly convene a Multi-stakeholder Symposium in July 2001. A working group formed by DWAF, SANCOLD, IUCN and civil society represented by EMG and Earthlife Africa, spent three months discussing and often arguing about the logistical arrangements, the agenda, the delegates, the finances etc. It was not easy for different stakeholders, who traditionally do things very differently, to reach agreement on all these issues, but it certainly set the basis for how to agree on increasingly controversial and difficult policy and principle issues throughout the process of the SA Initiative.

There were a number of key decisions made during this time that paved the way for the SA Initiative Process. These included:

- Appointing a neutral facilitator of the Symposium to ensure that all voices had equal opportunity to be heard

- Allowing the different perspectives equal emphasis on the agenda
- Appointing session chairs from all sectors to emphasise the joint “ownership” of the meeting
- Inviting equal numbers of participants from all sectors so that no single sector would dominate the meeting
- Ensuring that the registration fee would not marginalise sectors without funds
- Devising an agenda that gave every sector an opportunity to voice their perspectives and experiences, and then using that as a basis for multi-stakeholder discussion sessions to discuss the way forward
- Accepting the different forms of knowledge that such a multi-stakeholder group holds.

The July 2001 Symposium

The Symposium took place in July 2001. After two days of workshops sessions and plenary discussions, the key resolutions at the final plenary session were as following:

Resolution 1: *This Symposium declares itself to be broadly supportive of the strategic priorities outlined in the WCD report, but believes that the guidelines need to be contextualised in the South African situation.*

This Symposium recommends that a steering committee, elected at this Symposium, be tasked with the process of convening a series of meetings of the steering committee at which proposals will be drafted about the:

- *Composition of a co-ordinating committee;*
- *Agenda of such a co-ordinating committee;*
- *Timeframes for reporting back to a multi-stakeholder forum of this nature.*

Resolution 2: *This Symposium supports the process of taking the WCD guidelines further in the Southern African context. We recommend that the SADC Water Sector Co-ordinating Unit, together with NAWISA, initiate such a process and include the various stakeholders in that process.*

Stakeholders then elected a more comprehensive Steering Committee for the South African Multi-stakeholder Initiative on the World Commission on Dams Report, which was comprised of representatives from government, NGOs, dam-affected communities, public utilities, private sector and academia, research and finance.

In his final concluding remarks at the Symposium Mike Muller, the Director-General of DWAF stated that the Symposium had been a remarkable event in many ways as it had brought together people who at times had been on opposite sides of the barricade to work towards a better way to co-operate in the future to achieve the common goal of a better life for all that the Government was committed to.

Developing the analytical approach July 2001 to February 2002

This was an important phase where the Steering Committee elected at the July 2001 Symposium carried out its mandate to

devise a process for realising the Symposium Resolution – that is to contextualise the WCD Report for South Africa and to make recommendations on its implementation. Mr Brian Hollingworth of the Development Bank of Southern Africa was elected to be Chair of this interim Committee. He was subsequently re-elected a number of times and continued in this role throughout the process, during which time we all benefited from his legal knowledge, his humour which saw us through some rough patches and his impartial chairing.

This Steering Committee met a number of times over the seven-month period and produced a report for the Symposium delegates outlining their process recommendations, the composition of the proposed Coordinating Committee and a suggested analytical approach.

Description of the analytical approach adopted

Key aspects of this analytical approach included the following:

- The on-going initiative should be as inclusive as possible affording every individual, institution or group an opportunity to make representations
- The Symposium delegates should be invited to participate in a Multi-stakeholder Forum that would meet annually.
- Groupings on the Co-ordinating Committee should include agriculture and labour in addition to the sectors already represented.
- It was further recommended that the Dams and Development Project of UNEP and the IUCN be invited to participate as observers (this was later extended to the Southern African Development Community (SADC)).
- In terms of decision making it was recommended that the SA Initiative be consensus seeking.

It was agreed that the Co-ordinating Committee should be “forward-looking” and focussed on reaching consensus on future initiatives and as such should not undertake a study to compare South Africa’s historical practices with the recommendations of the report. However, examples from South African practice would be used as illustration.

In terms of the analytical approach it was recommended that the subject matter of the report could be conveniently grouped into the seven strategic priorities of the WCD with related policy principles and the twenty-six guidelines. The seven strategic priorities are as follows:

- Strategic Priority 1: Gaining Public Acceptance
- Strategic Priority 2: Comprehensive Options Assessment
- Strategic Priority 3: Addressing Existing Dams
- Strategic Priority 4: Sustaining Rivers and Livelihoods
- Strategic Priority 5: Recognising Entitlements and Sharing Benefits
- Strategic Priority 6: Ensuring Compliance
- Strategic Priority 7: Sharing Rivers for Peace, Development and Security.

As an example of a related policy principle, under Strategic Priority 4, Sustaining Rivers and Livelihoods, the WCD states: “large

dams provide for releasing environmental flows to help maintain downstream ecosystem integrity and community livelihoods and are designed, modified and operated accordingly". This strategic priority has three associated guidelines that relate to baseline ecosystem surveys, environmental flow assessment and maintaining productive fisheries.

In reviewing each of these strategic priorities, policy principles and associated guidelines, it was agreed that the Co-ordinating Committee should undertake the following:

- Come to a conclusion on its relevance and desirability in South Africa;
- Determine the extent to which it is covered by existing policy, regulation and legislation and in doing this, check
 - Whether implementation is successful; and
 - What particular participatory decision-making, monitoring and compliance mechanisms are in place;
- Make recommendations:
 - To remedy any gaps or inadequacies in policy, regulation and compliance;
 - To improve implementation, decision making, monitoring and compliance;
 - To specific institutions regarding enhancing their performance;
 - and to stakeholder groups regarding further actions needed.
- Identify whether there are any outstanding research needs; and
- Use illustrative examples from Southern Africa to support this analysis.

Producing the Scoping Report March to October 2002

As a first stage in this process outlined above, the Co-ordinating Committee commissioned a Scoping Report, which would analyse the issues on a broad basis, identify those that might be contentious, identify any specific studies or research that would be needed and recommend the way forward for the South African Initiative

In addition to providing very useful information, the Scoping Report also proved to be a very effective conflict resolution tool because it enabled Stakeholders to see that their perspectives had been included in the report. By seeing your own words or perspectives "in black and white" it fulfils a very deep human need to be "heard" and once there is evidence that that need has been fulfilled it is much easier for people to then "listen" to other perspectives without criticism or competition. The importance of a Scoping Report in enabling people to move forward has been evidenced in another contentious policy process – the Global Review of Private Sector Participation in Water and Sanitation, which is now being called "The Water Dialogues".

An Author for the Scoping Report, Ms Penelope Urquhart, was commissioned with funds from the UNEP Dams and Development Project. Ms Urquhart used all the documentation from the Symposium 2001, the WCD final report and key documents from the WCD knowledge base to prepare a

report for the Coordinating Committee. Gaps were covered through a number of interviews with key sectoral representatives. A draft Scoping Report was presented to the Second Multi-stakeholder Forum in July 2002. For each of the WCD Strategic Priorities, the Scoping Report detailed the following:

- Principles and findings from the WCD
- Trends in South Africa
- Key issues for South Africa (reflecting all perspectives)
- Key debating points
- Possible ways forward

Examples of key debating points that the Author extracted for discussion at the Coordinating Committee and Forum meetings are the following:

- When can it be said that public acceptance is demonstrated?
- What needs to be done to address the distortions in financing mechanisms favouring large dams over other options?
- Are social and environmental issues given equal weight when assessing water development options? How should this be improved?
- Should a moratorium be placed on dam construction? Until what conditions are met? Or should we ensure that committed steps are adhered to?
- What is the optimal process for setting the Reserve, so that it incorporates WCD principles?

Forum members were afforded the opportunity of making comments and changes to the Scoping Report and to give the mandate for the continuing work of the Co-ordinating Committee in finalising the substantive report, which would be based upon the Scoping Report. The mandate was given, the Co-ordinating Committee re-elected at the July 2002 Forum and the Scoping Report was finalised in October 2002.

Drafting the Substantive Report October 2002 to October 2004

The Co-ordinating Committee then spent the following two years drafting the Substantive Report following the analytical approach described above, and using the Scoping Report as its base. A key component of the methodological approach was to use a neutral author who participated in Forum and Committee Meetings and who was responsible for ensuring all perspectives were represented fairly and to documents the outcomes of the debates, dialogues and at times, heated arguments. One of the critical skills that this Author had to have was the ability to find the right words to deal with each controversial issue that would be acceptable to all parties. We found that semantics could make or break a discussion, and having an Author who can rephrase things in a way that reach a solution is very powerful. Each WCD Strategic Priority was discussed in turn and the recommendations and research needs were identified for all stakeholder groupings.

Using Strategic Priority 4: Sustaining Rivers and Livelihoods as an illustrative example of the Analytical Approach

The key message from the WCD is that rivers, watersheds and aquatic ecosystems are the biological engines of the planet, and the basis for life and livelihoods of local communities. Dams transform landscapes and create risks of irreversible impacts. Using the Analytical Approach discussed previously, it was agreed that this priority is highly relevant to semi-arid South Africa. This was highlighted by the Department of Water Affairs and Forestry in their Environmental Implementation and Management Plan (2001) where it states that “the sustainability of South Africa’s water resources is threatened both in terms of quantity and quality” and that “damage to or destruction of aquatic ecosystems is having significant negative social and economic impacts.”

The second part of the Analytical Approach is the *Overview of Existing Institutional Framework* where all the laws, policies and management plans relating to Sustaining Rivers and Livelihoods were detailed. In particular, the inclusion of the “Ecological Reserve” in the National Water Act was highlighted as being of international significance. The Reserve refers to the quantity and quality of water that must flow in rivers, wetlands and estuaries as well as being present in aquifers, in order to protect the aquatic ecosystems to secure ecologically sustainable development and for basic human needs. In the third part of the Analytical Approach, the *Analysis against the WCD Principles*, a number of issues of concern were raised. One of the key issues is that the Reserve is a complex combination of physical characteristics such as variable flow regimes based on natural cycles of floods and drought and temperature as well as chemical characteristics, and that whilst the legal framework is in place, the science necessary for the determination of the Reserve is not developed to the extent that the WCD implies. There was also debate and disagreement within the Coordinating Committee regarding the role of the Reserve and environmental flows, with some of the Government representatives believing that the Reserve is sufficient for environmental sustainability and other representatives believing that the Reserve is being used as a mechanism to reduce all rivers to the base flow, and that the reserve’s emphasis on when and how much water should flow cannot mitigate the other impacts of dams such as changes in water temperature, chemical composition, blocking of fish migration and biota and sediment load. As this remained a debating point where we did not reach agreement, the analysis reflects both perspectives. A compromise was reached with one of the recommendations that clearly state: “that the reserve is a minimum and any use above the reserve should be fully justified against the deterioration that it causes in river health and services”.

With respect to the WCD Principle that there should be a national policy for maintaining rivers with high ecosystem functions and values in their natural state, it was agreed that the concept that some rivers should be maintained in a pristine condition does not appear in the South African proposed classification system and it was recommended that this be included in the final version.

Eleven *recommendations* were made and eight *research needs* identified to strengthen implementation, decision-making, monitoring and compliance with respect to sustaining rivers and livelihoods in South Africa and to remedy the gaps and inadequacies in policy. In particular the need for further research on cumulative impacts and inter-basin transfers was raised. One of the policy gaps identified was that of the Precautionary Principle, which is currently not explicitly detailed in the South African water resources framework.

Approval and finalisation of the Substantive Report

At the Multi-stakeholder Forum in October 2003, the Coordinating Committee presented three Strategic Priorities to verify that the Committee was satisfying the expectations of stakeholders and approved of the analytical approach. The October 2003 Forum approved the process and provided input on the first analysis. The draft Substantive Report was then presented a year later at the October 2004 Forum meeting for review. Participants at the 2004 Forum went through the report and identified priority areas for emphasis during the implementation phase and gave the Coordinating Committee the mandate to complete the Substantive Report based on the comments provided at the Forum meeting.

This resulted in the finalisation of the Summary and Substantive Report Versions of “*Applying the World Commission on Dams Report in South Africa*” which were published in March 2005, and which are available electronically.

In reality, the drafting process of the Substantive Report was very difficult and time consuming. Unlike the Scoping Report where Committee Members detailed positions and the rationale behind them and checked that they were reflected correctly, in the Substantive Report, the Coordinating Committee had to strive to reach consensus. This involved negotiation and also compromising on issues about which Committee members felt very strongly. There were a couple of times when discussions were too heated and there was a need for just taking time out for reflection, or for stakeholder groups to caucus during meetings or just for a couple of people representing different perspectives to discuss it away from the Committee meeting and then to report back a proposed solution. Due to the atmosphere of mutual respect that characterised the process, most discussions did end up with some degree of acceptability to all participants. Where consensus was impossible, for example, on calling for a moratorium on dams in South Africa until the conditions of the WCD has been met, divergent views were reflected in the report.

At the October 2004 Forum, all stakeholder groupings broadly endorsed the draft Substantive Report and expressed their satisfaction with the work carried out over the past three years. Stakeholders felt that much of the success of the SA Initiative on the WCD can be related to the nature of the multi-stakeholder process, and congratulated the members of the Co-ordinating Committee for their role in safeguarding and respecting the process. With the approval of the October 2004 Forum of the Substantive Report, the mandate of the first 2001 Symposium was fulfilled.

Factors contributing to the success of the SA Initiative

Whilst the ultimate success of the SA Initiative will be determined by the extent to which the recommendations are implemented and how this transforms and improves South African water and energy policy and practice. However, the remarkable degree of consensus that we did achieve is an indicator of success, as well as the attention and feedback from the Dams and Development Project of UNEP and the international Dams and Development Forum. For members of the Coordinating Committee the experience has been very valuable and we have individually and collectively learnt valuable lessons. In trying to define some of the reasons for our success to date, the Co-ordinating Committee has come up with the following elements:

- Reasonable and committed participants
- Belief that the WCD improves practices, has much to offer and can be implemented
- Early adoption of core values and approaches of the WCD
- Determination to examine each proposal
- Determination to build consensus
- Determination not to adopt proposals blindly
- Realisation that SA cannot afford to repeat past mistakes
- Open and constructive debate
- Forward looking and thereby avoiding recriminations
- Clear process
- Time for reflection
- Supportive role played by DDP and SSNC in particular
- Funds for critical elements
 - Author
 - Attendance costs of disadvantaged groups
 - Multi-stakeholder forums

In addition to these factors developed by the Coordinating Committee as a whole, I would like to add three more:

- Gender balance – having both men and women actively participate in the Coordinating Committee created an atmosphere that was more conducive for problem solving, and perhaps helped bridge the divide between very technical engineering matters and highly politicised social issues
- Process given as much emphasis as content issues
- A triangle of mutual respect was established informally between the Chair and a representative each from Government and Civil Society, which enabled problems to be solved, and issues that were particularly important to any one of the sectors to be understood and respected.

Challenges faced by the Multi-stakeholder Initiative

However there were also a number of ongoing challenges which proved difficult throughout the process of the SA Initiative – either as a disincentive for others to take our process seriously or it hampered the progress of the SA Initiative. These included the following:

- Misconception that the WCD is for developed countries
- Maintaining representivity

- Maintaining momentum
- Maintaining balance of power
- Avoiding advocacy role in related issues
- Avoiding detail e.g. best practice guidelines
- Finances
- The SA Initiative taking place in parallel to other policy processes such as the National Water Resources Strategy and not influencing it significantly
- Ultimately the major challenge is to get the recommendations implemented.

Part II: Contents of the Final Report: Applying the World Commission on Dams Report in South Africa

The Substantive Report “*Applying the World Commission on Dams Report in South Africa*”, published in March 2005, presents the outcome of this three-year long effort to contextualise the WCD report in South Africa and to seek consensus on what can be done to improve large dam practice in South Africa. This report closely examines dam practice, environmental concerns, and the legacy of dam-affected communities, the legislative, policy and procedural frameworks to draw out proposals for the way forward. With the approval of the October 2004 Forum and the publishing of the Substantive Report, the original mandate of the first multi-stakeholder Symposium was concluded.

As discussed previously, the report provides, for each strategic priority, an assessment against the WCD principles and guidelines of South African policy and practice, highlights gaps in the policy and institutional frameworks and in operating procedures, and make recommendations for improvements to policy, decision making and practice.

The Report is published as both the full Substantive Report as well as being available in a Summary Report. The full report is divided into four main sections – Part A covering background issues relating the WCD and South Africa, Part B details the analysis of the Seven Strategic Priorities and their associated Principles and Guidelines and Part C details the Conclusions and the Way Forward. Section D provides the complete set of recommendations and research needs that emanated from the SA Initiative process.

Whilst all of these recommendations are believed to be important for taking forward the WCD principles and priorities in an appropriate manner in South Africa, the Co-ordinating Committee agreed that central recommendations concern the need to:

- Address outstanding social issues and move forward on the work of the Sub-committee on Reparations established as part of this Initiative;
- Further developing the process of gaining public acceptance through enhanced public participation procedures;
- Improving the process of comprehensive options assessment, prioritising at this stage further promotion of water demand management; and
- Establishing catchment management agencies (CMAs) to enforce legislation.

The October 2004 Forum agreed that these were clear priorities, and identified additional priorities for action, which concern the need to:

- Further prioritise resources for sustaining rivers and livelihoods,
- Improving the system of monitoring and evaluation of both the performance of dams and of river health;
- Setting in place a national policy, procedures and mechanisms for benefit sharing and monitoring of social impacts related to new dams; and
- Improving regional good governance through promoting the uptake of WCD principles in NEPAD and other African initiatives for development, as well as in the actions of South African government institutions, utilities, private sector and civil society operating throughout Africa.

The one single issue that was clearly highlighted as being the highest priority but also contentious is the issue of reparations for remedying outstanding social concerns of dam-affected people. Whilst it is important to consider a range of forms of reparations/redress, there were differing positions on the issue of financial reparations. The WCD Report defines “reparation” as including “actions or processes that remedy, repair, make amends or compensate for past failures and damages.” In the South African context, various forms of remedy, repair and compensation need to be considered to address impacts on affected people and a Sub-committee on Reparations has been established to investigate this.

Implementation phase

The Final Report of the SA Initiative identified gaps in the policy framework and in practice that need to be remedied to align more fully the WCD principles and guidelines. At the October 2004 Forum, a new Multi-Stakeholder Committee was elected to take forward the next steps beyond dissemination of the results of the previous three-year process. This new committee will need to strategise on how to ensure implementation of recommendations. It was understood that implementation would be through progressive realisation.

The smaller set of priority recommendations identified at the October 2004 Forum has been used to develop the synthesised set of recommendations provided below, which should provide the focus for concerted implementation efforts during the next phase of the SA Initiative. While initial efforts should be focused on the priority set of recommendations, the full set of recommendations remains relevant and should be achieved through a process of progressive realisation.

Priority recommendations

The priority recommendations identified at Forum 2004 have been grouped under three main areas, which represent those issues requiring immediate attention, by broad agreement. The section below has been taken out of the Final Report and was developed by the Author Penny Urquhart from the inputs

provided at the October 2004 Forum. The three main areas are:

- Addressing social impacts
- Enhancing governance of water and energy resources development
- Promoting river health and sustainable livelihoods

For each of these main areas, several specific recommendations are provided.

A Addressing social impacts

The following recommendations relating to addressing social impacts have been agreed as priorities. They concern the need to address unresolved social concerns from existing dams, and to explore and implement mechanisms for recognising entitlements and sharing benefits for new dams.

A1 Address unresolved social concerns from existing dams: As an urgent priority, a clear, consistent policy should be established to deal with unresolved social concerns for dams affected people. Government should take the initiative and establish a multi-stakeholder committee with representatives of government, owners, affected people, legal experts and other appropriate stakeholders. In view of the different perspectives outlined above this process should strive to reach consensus. The Reparations Sub-Committee established by the SA Multi-stakeholder Initiative should be taken up into this committee. This committee should be empowered and given resources to develop a clear policy on addressing unresolved social concerns and to identify an implementation strategy for this policy, which should include a system to resolve disputes.

A2 Explore and implement mechanisms for recognising entitlements and sharing benefits for new dams: A clear national policy on recognising entitlements and sharing benefits for dam-affected people for new dams should be agreed to by all stakeholders. The Reparations Sub-Committee established during this Initiative should interact with DWAF to take this recommendation to develop a national policy on compensation further. Based on this national policy, a Compensation Assessment and Action Plan should be developed for each project, and there should be individual contracts developed with affected people to ensure compliance.

B Enhancing governance of water and energy resources development

The following recommendations relating to improved governance have been agreed as priorities. They concern improved integration of water resources issues in macro-level planning, enhancing public participation, developing and implementing monitoring and evaluation systems, promote comprehensive options assessment by further enabling water demand management, and regional governance for environmental sustainability.

B1 Improve integration of water resources issues in macro-level planning: DWAF and other organs of state should ensure that the issues around dams and public acceptance of them are fully integrated into the national planning frameworks, including the next revision of the National Water Resources Strategy, so

that the implications of decisions that have a dam as a potential consequence are fully understood.

B2 *Enhance public participation:* An appropriate national multi-stakeholder forum should be given oversight over the participation processes across all catchment areas and throughout the catchment management, dam planning, implementation and post-project monitoring cycles. It should liaise with catchment management authorities and should have the authority to convene catchment- or project-specific multi-stakeholder forums. This forum should develop detailed criteria for assessing whether a dam (or other water resource development proposal) has received adequate public acceptance. To further enhance public participation, the DWAF should reformulate the Generic Guidelines for Public participation [which was found to be inadequate].

B3 *Build capacity and allocate finance to facilitate empowerment:* Additional funding should be allocated and more effort placed on building capacity at the community level to facilitate empowerment, so that communities can participate more meaningfully in decision-making processes. This is a role for government and civil society.

B4 *Develop and implement monitoring and evaluation systems:* A comprehensive monitoring and evaluation process and a system of longer-term periodic reviews of the technical, environmental, economic and social performance, benefits and impacts for all existing large dams should be progressively introduced. Particular attention should be paid to the monitoring of social impacts, which has received insufficient consideration in the past.

B5 *Promote water demand management:* The drive for implementing water demand management, as one of the options available to the comprehensive options assessment process, should be strengthened by the allocation of financial and other resources. Capacity should be built in local, provincial and national governments, for both officials and politicians, on the importance of water demand management.

B6 *Promote regional good governance:* South Africa, being one of the driving partners of NEPAD and other African initiatives for development, should strongly promote the strategic priorities and principles of the WCD as a basis for water resource management and development of these organisations. Specifically, the South African government should continue to provide support and/or dialogue with the governments of countries from which South Africa extracts water to ensure that compensation issues are dealt with adequately, without impinging on the sovereignty of other countries.

C Promoting river health and sustainable livelihoods

The following recommendations relating to Promoting river health and sustainable livelihoods have been agreed as priorities. They concern the need to prioritise resources needed to sustain rivers and livelihoods, taking steps to maintain rivers in a pristine state, monitoring river systems, and agreeing methodologies to determine environmental water requirements on a regional scale.

One of the important concepts provided for in the South African National Water Act, and which is mentioned below is

the “Water Reserve”, which gives priority to water “to protect aquatic ecosystems in order to ensure ecologically sustainable development and the use of the relevant resource” and to satisfy basic human needs. No other water entitlements are guaranteed, and no allocations can be made to other user sectors before this Reserve is met.

C1 *Prioritise resources needed to sustain rivers and livelihoods:* Whilst the legislative and regulatory framework that has been established broadly matches this strategic priority, the draft NWRS points out that the country does not have the resources to implement the measures in the short-term. It further stipulates that additional resources are required to accelerate the determination of the resource class and reserve for all rivers. It is strongly recommended that the country cannot afford not to implement these measures and that every effort should be made to prioritise the resources needed to sustain rivers and livelihoods.

C2 *Maintain existing pristine rivers:* As there are so few rivers left in South Africa in a pristine state, priority should be afforded to identifying river reaches that are still in a pristine condition, and all efforts should be made to conserve them in this state. The river classification system should be amended to include ‘pristine’ as a category. An investigation should determine whether existing legislation is adequate or whether new legislation is required for protecting all or most of these remaining rivers in a pristine state.

C3 *Monitor river systems against objectives of the Reserve:* The flows of the Reserve are a function of the categorisation / classification system. Once the Reserve has been determined, through an equitable, objective and scientific methodology that is the product of broader participation, and applied to a river, the river system should be monitored closely to ensure that the Reserve is achieving its stated objectives of maintaining the ecological integrity of the river and providing for basic needs.

C4 *Agree on methodologies to determine environmental water requirements on a regional scale:* The determination of ecological water requirements is complex and, within SADC, South Africa is the only state where there is legislation to provide these requirements. SADC should develop, or facilitate the development, of agreed methodologies for assessing and determining environmental water requirements for both rivers and estuaries.

Progress with respect to implementation

At the October 2004 Forum a new committee was elected, as well as a new Chair, Mr Andrew Tanner, from the Private Sector. The first task of this new committee has been to publicise and disseminate the report of the SA Initiative “Applying the WCD Report in South Africa”. This has been done through postal dissemination to all delegates who have attended annual Forum meetings, electronic newsletters and through distributing documentation at key meetings.

In particular there have been a number of global meetings where members of the Committee have made presentations – these include the 4th World Water Forum in Mexico, the United Nations Commission for Sustainable Development Meeting in

New York May, 2005, the UNEP Dams and Development Forum in Nairobi in October 2005, the Ethiopian Conference on Dams and Decision Support Systems in January 2006, the African Rivers Network Annual General Meeting in October 2005 and the UNEP DDP Side Event at the African Ministerial Conference on Hydropower and Sustainable Development (March, 2006). To make the report available to all stakeholders throughout the world, the reports are all available on the websites of the UNEP Dams and Development Project (www.unep.org/dams) and the Environmental Monitoring Group (www.emg.org.za).

As the current emphasis is on the outstanding social issues of past dams, the work of the Reparations Committee is being prioritised, and we are working closely with DWAF to undertake a Social Audit of existing dams. This is new and exciting territory for government and civil society, as it has not been done before anywhere in the world to our knowledge. The Audit is expected to detail the extent of the impact that the past dams have had on communities and to identify ways to effect compensation and reparation.

An Implementation Conference is planned to take place in early 2008 in order to give all stakeholders a chance to report back on how the recommendations are being implemented, and to strategise on the progressive realisation of the fuller list of recommendations. In the meantime, a number of working groups have been established to work with the different priority areas.

Another key area for concentration during the next few years is encouraging similar processes to take place throughout Africa. This is in line with the priority recommendation for action from the October 2004 forum to improve regional good governance through promoting the uptake of WCD principles in NEPAD and other African initiatives for development, as well as in the actions of South African government institutions, utilities, private sector and civil society operating throughout Africa.

Members of the Coordinating Committee are working closely with the Dams and Development Project of UNEP to promote dialogue processes in Africa – at both national and continental levels. This is particularly important due to the promotion of large hydropower projects through NEPAD and through the European Infrastructure Agreements. In March 2006, the South African Government hosted the African Ministerial Conference on Hydropower and Sustainable Development, which again illustrated how much emphasis hydropower is receiving from African Governments and Western Funders. In parallel, there are increasing examples of Chinese support for large dams in Africa. This makes it even more imperative for good process to be followed in ensuring that environmental and social issues are given equal weighting as technical and financial considerations.

Conclusion

In the Message from the Minister of Water Affairs and Forestry included in the beginning of the Final Report, Ms Sonjica emphasised that the SA Initiative, including representation from her Department, had worked tirelessly for three years to build consensus on how we in South Africa should respond to the WCD

Report and how we *can improve our decision making on dams*, which she highlighted was the ultimate purpose of the whole process. She is correct for decisions are what determine future courses of action – be they remedying past injustices, providing new services or choosing more sustainable alternatives.

We trust that the progressive implementation of the consensus recommendations from all perspectives will result in a fairer and more sustainable future. Therefore we endeavour to encourage in true multi-stakeholder spirit the adoption of the recommendations of this report in South Africa, and to promote similar processes throughout Africa. Only through good decision making processes can Africa be developed in a manner that is economically sound, ecologically sustainable and socially just.

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Please note copies of both reports are available on the UNEP www.unep.org/dams website as well as from the Environmental Monitoring Group website www.emg.org.za - CDs with all the key documentation are also being disseminated and can be obtained from info@emg.org.za

Notation

CMA	– Catchment Management Agencies
DBSA	– Development Bank of Southern Africa
DDF	– Dams and Development Forum
DDP	– Dams and Development Project
DWAF	– Department of Water Affairs and Forestry (South Africa)
EMG	– Environmental Monitoring Group
NAWISA	– Network for Advocacy on Water Issues in Southern Africa
NEPAD	– New Partnership for Africa's Development

- NGO – Non-governmental Organisation
- NWRS – National Water Resources Strategy
- IUCN – The World Conservation Union
- SA – South Africa
- SADC – Southern African Development Community
- SA Initiative – South African Multi-stakeholder Initiative on the WCD Report
- SANCOLD – South African National Commission on Large Dams
- SA Water Caucus – South African Water Caucus
- UNEP – United Nations Environment Programme
- WCD – World Commission on Dams

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