HSAF Meeting 9 – Lao PDR 3-6 May 2010
Final Minutes

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Forum Meeting 9 commenced at 8:30 am on Monday 3 May 2010 and closed at 18:00 on Thursday 6 May 2010. The meeting was hosted by the Mekong River Commission (MRC), and located at their head office in Vientiane, Lao PDR. Prior to the meeting, a number of Forum members participated in a study tour of the Nam Theun II power station, and also met with more than forty stakeholders from the Mekong region (Cambodia, China, Lao PDR, Thailand, Vietnam) through an event organised by M-Power.

Not all agenda items were addressed in the order presented in the meeting agenda, and some agenda items were partially covered one day and completed on another. These minutes record the meeting by agenda item in the order presented in the meeting agenda.

AGENDA ITEM 1 – OPENING

Present: Forum Members - Refaat Abdel-Malek (IHA), David Harrison (TNC), Joerg Hartmann (WWF), Geir Hermansen (Norway), Cathleen Seeger (Germany), Donal O'Leary (Transparency International), Andrew Scanlon (Hydro Tasmania), Michael Simon (Oxfam)

Meeting Chair - André Abadie

Supporting Participants – Helen Locher (Forum Coordinator), Kristin Schumann (IHA), Richard Taylor (IHA)

Apologies: Forum Members – Daryl Fields (World Bank), Gudni Johanneson (Iceland), Courtney Lowrance (Equator Banks), Israel Phiri (Zambia), Zhou Shichun (China), Yu Xuezhong (China)

Jeremy Bird, CEO of the MRC, welcomed the Forum members to the MRC offices.

The Forum members reviewed and agreed on the meeting agenda provided as Mtg9 Paper 1. The highest meeting priorities were agreed to be:

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- agree on edits to be made to the HSAP Draft1 Final;
- agree on process of Forum closure; and
- discussion of next steps.

AGENDA ITEM 2 – MINUTES AND ACTIONS FROM MEETING 8 AND WEBINARS 3 AND 4

The minutes from Meeting 8, Webinar 3 and Webinar 4 were provided as Mtg9 Papers 2a, 2b and 2c but were not discussed, as they had already been accepted as final by agreement of Forum members out of session.

The status of actions from Forum Meeting 8, Webinar 3 and Webinar 4, summarised in Meeting Paper 2d, was noted. All actions were complete or in train; those in train were part of the present meeting papers and agenda.

Mtg9 Paper 2e was the outcome of Meeting 8 Action 20, an auditor review of the redrafting content. This was not directly discussed in Forum Meeting 9, but was provided in the meeting papers for reference and was referred to several times during discussions.

AGENDA ITEM 3 – DECISION-MAKING PROCEDURE FOR FORUM MTG 9

Mtg9 Paper 3 outlined a procedure for reaching decisions at Forum Meeting 9 consistent with the Forum objective for consensus and its Principles for Consensus Building.

Mtg9 Agenda 12 was in included in the meeting to support this decision-making procedure. It provided a holding point at which Forum members could review a summary of decisions made, divergent views and open issues. In Meeting 9, this summary was reviewed at the start of Day 4 to see how many of these could move to a consensus agreement.

In these minutes, issues are labelled where they remain an open issue or where there are divergent views remaining at the end of this meeting. These are consolidated in the minutes under Agenda Item 12.

The Forum members discussed that it was important to understand what was meant by adoption and endorsement, so that Forum members had a better basis from which to indicate the significance of any decisions as a "showstopper". This discussion was relevant to Mtg9 Paper 14, in which definitions of adoption and endorsement were proposed. In the meeting the Forum members commenced discussion of Mtg9 Paper 14 at the end of Day 1 so that some of these ideas could be considered alongside considerations of significance of issues and decisions.

Mtg 9 Agreement 1: *The proposed decision-making procedure for Forum Meeting 9 outlined in Mtg9 Paper 3 was accepted.*

AGENDA ITEM 4 – PROTOCOL STRUCTURE – SECTIONS + SUPPLEMENT

Mtg9 Agenda Item 4 focussed on the overall Protocol structure. In the HSAP Draft1 Final Introduction (Mtg9 Paper 4a) were several figures (2 and 3) which present the Protocol sections in the same manner shown in the Draft Protocol August 2009. During the redrafting, proposed changes coming from various sources (trialling, consultation, Forum members and reference groups) pertinent to these figures included:

- having the Protocol introduction as a stand-alone document;
- having Section I treated differently, perhaps as a guidance document (Mtg9 Agenda Item 10);

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- having Section IV with a more confined scope if concerns about older projects could not be alleviated (Mtg9 Agenda Item 8);
- removing section numbers and referring to documents by life cycle stage; and
- having an educational supplement with the name and form to be determined (Mtg9 Agenda Item 11).

Also pertinent to discussions about how the package of documents would be presented were considerations that there may be new additions in the future. Mtg9 Paper 4b presented an idea to refer to the whole package as a "framework" and proposed some document titles. This idea was considered alongside a number of agenda items through the four days.

A proposal was raised to additionally add reference to an assessor workbook, i.e. an audit template, to the figure (this was something different to the proposed supplement). Discussion points included the need for caution about appearing to open up new horizons in any graphical representation of the Protocol package, as there is a change weariness and in cases major concerns about where this is all going. This is not with reference specifically to the assessor workbook, but more generally with respect to references to future initiatives such as additional assessment protocols. A number of Forum members were concerned about any presentation of the package that made Section I appear weakened relative to the other sections.

Agreement 2 reflects the outcomes of thinking by the end of the meeting.

Mtg 9 Agreement 2: *The package of documents will continue to be referred to as the Hydropower Sustainability Assessment Protocol. There will be five documents in the HSAP package, with the following names proposed but subject to further consideration: Introduction, Early Stage, Preparation, Implementation, Operation. All documents will be preceded by Hydropower Sustainability Assessment Protocol (HSAP), and will not be numbered but could have letter codes. The five documents will be underpinned by an online Knowledge Base capturing knowledge on Protocol sustainability topics derived through the Forum process.*

Figure 1 provides a graphical representation of Mtg9 Agreement 2. This graphic was developed for the purposes of the meeting minutes and not agreed within the meeting, and is presented here for the purpose of further discussion following this meeting.

In the remainder of these meeting minutes, references will still be made to sections by number, on the understanding that this will change in the HASP Draft2 Final documents in line with Mtg9 Agreement 2. Previous references to Protocol Supplement will be replaced with HSAP Knowledge Base as per the outcome of discussion of Mtg9 Agenda Item 11.
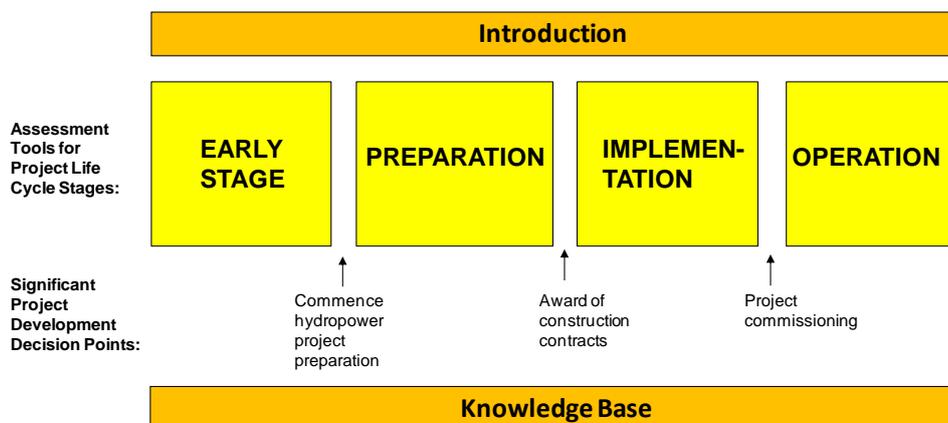

Figure 1 – Graphical representation of proposed Hydropower Sustainability Assessment Protocol structure.

[*** *Open issue – final Protocol structure and labels*]

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AGENDA ITEM 5 – PROTOCOL METHODOLOGY - SECTIONS II, III, IV

Mtg9 Agenda Item 5 addressed excerpts of the Hydropower Sustainability Assessment Protocol (HSAP) Draft1 Introduction relating to the assessment methodology for Sections II, III and IV. Mtg9 Paper 4a (the HSAP Draft1 Final Introduction) indicates where these different issues are relevant, and background on these different issues including pros and cons of different options is found in Mtg9 Paper 5. The following questions were considered and agreements made:

Methodology Q1: Level 5 Appearing in Full on the Topic Page. Options presented in Mtg9 Paper 5:

  (a) Level 3 and 5 statements expressed in full on each topic page
  (b) Level 3 statement expressed in full on each topic page, with Level 5 statements showing what is different than Level 3

Option (a) is illustrated in the format used in Mtg9 Paper 7 for Section II; Option (b) is illustrated by Mtg9 Paper 8 for Section IV. It was noted that there is an Option (c), which is that only the Level 3 statement is spelled out on the topic page, and in all cases the assessor goes back to Table 3 to determine the grading up or down. A variation on Option (a) was also proposed for consideration, in which the full Level 5 statements are retained, but the differences from Level 3 are colour coded to make them more apparent.

The consensus agreement was for Option (b).

Mtg 9 Agreement 3: *It was agreed that the Level 3 statements would be expressed in full on each topic page, with the Level 5 statements showing only what is different than Level 3 (typically expressed as "in addition…").*

Methodology Q2: HSAP Scoring Table. Options presented in Mtg9 Paper 5:

  (a) Accept Table 3 as presented in the Protocol Introduction
  (b) Further edits required to Table 3

It was noted that there is an Option (c), which is not to have Table 3 at all. This was raised out of concerns that Table 3 is inconsistent with scoring statements within the Protocol sections, and would be a source of confusion as to whether the scoring statements or the Table 3 statements are the basis for assigning scores. A number of Forum members raised points and proposed refinements with respect to almost all criteria in Table 3, in the way of edits or recalibration. Other meeting agreements also have bearing on this table, notably number of scoring levels and how disclosure is dealt with.

The consensus agreement was for Option (b). During the meeting, several reiterations of Table 3 were tabled and reviewed, with progress made towards addressing issues raised, but still a few outstanding concerns to be addressed. Note that under Mtg9 Agenda Item 8, on Section IV, questions were raised about the applicability of Table 3 to Sections III and IV in which there are wording changes for the different criteria. This will be part of the review and re-editing considerations provided for in the following meeting agreement and action.

Mtg 9 Agreement 4: *It was agreed that Table 3 requires further edits, and should be reviewed in light of how well these edits alleviate concerns and address recommendations.*

Mtg 9 Action 1: *The Forum Coordinator to review Table 3 in light of other Meeting 9 agreements, concerns about consistency with the topic statements, minor edits identified by Forum members, and the need for clarification about its role in assigning scores, and to represent this table in the HSAP Draft2 Final for further consideration.*

[*** Open issue – final form and fate of Table 3]

Methodology Q3: Number of Scoring Levels. Options presented in Mtg9 Paper 5:

  (a) Six – 0, 1, 2, 3, 4, 5 as shown in Draft1 Final Introduction, Table 3, and Sections II, III, IV

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(b) Five – 1, 2, 3, 4, 5 consistent with Draft Protocol approach

(c) Five – 1, 2, 3, 4, 5 as a variation to option (a), using the same scoring statements for the interim levels, but eliminating level 0

The pros and cons of these different options are provided in Mtg9 Paper 5. The Forum Coordinator referred to 11 pages of notes derived from the trialling and consultation consolidating comments made with respect to the scoring levels, showing there were a wide range of views on the approach to scoring, but many specific concerns about the large gap between levels 2 and 3 in the Draft Protocol. Forum members favoured five levels but with strong encouragement for those close to basic good practice. The consensus agreement was for Option (c) with some recalibration of wording in the present Level 1 statements.

Mtg 9 Agreement 5: *It was agreed that the Protocol will have five scoring levels 1, 2, 3, 4, 5. The Level 1 statement will refer to poor or absence of performance, and the Level 2 statement will reflect close to basic good practice.*

Mtg 9 Action 2: *The Forum Coordinator to review the wording for the Level 1 and 2 statements in the Introduction, topic scoring statements, and Table 3 in light of Mtg9 Agreement 5.*

Methodology Q4: Definitions of Basic Good Practice Assessment, Management and Stakeholder Engagement. Options presented in Mtg9 Paper 5:

(a) Accept proposed text in Draft1 Final Introduction

(b) Further discussion and refinement required

Some concerns were raised that these definitions were reliant on interpretation of the word "appropriate", and that a definition of this word would be necessary in the glossary. The major concern raised by many was with respect to inconsistencies with Table 3, particularly where references were made in the text associated with basic good practice definitions to what would be exhibited at higher levels of performance. After some discussion, the Forum proposed an Option (c) of merging the information on Basic Good Practice definitions of assessment, management and stakeholder engagement directly into Table 3. This would alleviate the need for two look-up documents, and avoid the risk of any inconsistencies between the two. The consensus agreement was for Option (c), but subject to review of Table 3 and future decisions on this table.

Mtg 9 Agreement 6: *It was agreed that the text in the HSAP Draft1 Final Introduction relating to definitions of basic good practice for assessment, management and stakeholder engagement could be merged into Table 3, recognising that Table 3 will be subject to further review.*

Mtg 9 Action 3: *The Forum Coordinator to ensure a definition of the word "appropriate" is in the Glossary of Terms.*

Methodology Q5: Assigning "Not Relevant". Options presented in Mtg9 Paper 5:

(a) Introduction approach accepted

(b) Further discussion and refinement required around rewarding avoidance

There was considerable discussion of how to reward active avoidance. All Forum members favoured approaches that enabled rewarding of active avoidance, but recognised that giving a 5 on all topics where there were no issues due to demonstrated active avoidance may result in some perverse outcomes (i.e. initial project designs encouraged to build in deliberate impacts). There were also concerns about double-counting, if avoidance is already rewarded at the Siting & Design topic. Questions were raised about small hydropower projects, and if they should automatically get 5 scores on topics that are not relevant because by design they avoid impacts. If this logic were extended, "Not Relevant" may not be an option at all.

The Forum was reminded that the option of "Not Relevant" was proposed so that some projects did not have to assess all topics, and so the burden of the Protocol assessment process could be reduced. If the Environmental and Social Impact Assessment & Management topic were

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early in the order of Protocol topics, it would enable the determination of Not Relevant to a number of further topics and then these could be eliminated from the necessity to further assess.

Some Forum members pointed out that if there were a standard figure produced from an assessment process that had a 5 score at the centre of a webgram or as "no bar" on a histogram, then visually there would be no difference whether a 5 score or Not Relevant were assigned. However at this point in time there is no agreement on a standard visual representation of the sustainability profile resulting from the assessment, and the instructions in the Introduction only refer to a standard reporting template leaving it open to the assessor to determine a graphical presentation approach for the results.

The options for this question were reconsidered and represented as 3 options for consideration:

- (a) Not Relevant assigned if there is no issue or if there is active avoidance
- (b) Not Relevant assigned if there is no issue; 5 score given if there is active avoidance
- (c) Score of 5 given if there is no issue or if there is active avoidance

The outcome was a split vote with 3 in favour of Option (a), 3 in favour of Option (b), and one abstained. In a second round of consideration, the Forum agreed to go with Option (a) in order to avoid provoking divisive views on how Not Relevant and 5 scores are assigned.

Mtg 9 Agreement 7: *It is agreed that Not Relevant will be assigned to a topic if credible evidence shows that there is no issue to be assessed (e.g. no resettlement, no indigenous peoples, no cultural heritage), even in the case where there is no issue due to active avoidance of this issue.*

Methodology Q6: Assigning "Not Verified". Options presented in Mtg9 Paper 5:
- (a) Not an option, and Protocol Introduction specifically instructs on this
- (b) Not an option mentioned in the Protocol Introduction, but it is recognised that it may be used in practice if it is appropriate to the context in which an assessment is undertaken
- (c) Retained as an option in the Protocol, but with strong controls specified

After considerable discussion of the differences between Not Verified and Not Assessed, and the situations that might arise in an assessment that need to be addressed, the Forum members agreed that an Option (d) was the consensus resolution:

(d) Use Not Scored in this situation, with requirement to state why not

Mtg 9 Agreement 8: *It is agreed that in the case of a sustainability topic being assessed but an inability to verify the evidence to support assigning a score, that it should be indicated as Not Scored and the reasons stated as to why not.*

Methodology Q7: Assigning "Not Assessed". Options presented in Mtg9 Paper 5:
- (a) Not an option
- (b) Retained as an option with the requirement that it must be exhibited in a final figure and explained in the report

In line with the discussion about Methodology Q6, the Forum members agreed that an Option (c) was the consensus resolution:

(c) Use Not Scored in this situation, with requirement to state why not

Mtg 9 Agreement 9: *It is agreed that in the case of a sustainability topic not being assessed for any reason (e.g. the interviewee did not show up, or it was not part of the schedule for the Protocol assessment), that it should be indicated as Not Scored and the reasons stated as to why not.*

Mtg 9 Agreement 10: *It is agreed that the Protocol Introduction should provide text stating that the objective is to get a full sustainability profile for a project. Partial assessments with*

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> *Not Scored topics should be seen as stepping stones towards a full assessment, and therefore incomplete.*

Topic Page Format

An additional issue raised was about whether the Assessment Guidance notes should appear on the topic pages, or be provided in a separate handbook (perhaps along with Table 3 and the Glossary of Terms). The reason given was that lists of examples in the assessment guidance notes might be interpreted as lists of essential requirements in order to provide that score. Of relevance to this consideration is that consistent feedback from many stakeholders in both the consultation and trialling on the Draft Protocol August 2009 were highly supportive of the assessment guidance notes found on the topic pages, and considered these one of the strengths of the Protocol. An option to address this concern could be around clearer wording that these are notes for guidance and provide examples but are not prescriptive lists that must be met for a score to be assigned.

Mtg 9 Action 4: *The Forum Coordinator to consider how Assessment Guidance notes are presented on the topic page, and whether additional wording is necessary to make it clear that this is guidance, and that where examples are provided these are examples only to improve understanding and are not prescriptive lists in which all components must be met.*

[*** *Open issue – instructions on how Assessment Guidance should be used*]

AGENDA ITEM 6 – ISSUES COMMON TO SECTIONS II, III, IV

Mtg9 Agenda Item 6 addressed cross-section issues arising in the redrafting of Sections II, III and IV. Mtg9 Paper 4a (the HSAP Draft1 Final Introduction) indicates where some of these different issues are relevant, and background on these different issues including pros and cons of different options is found in Mtg9 Paper 6. The following questions were considered and agreements made:

Cross-Section Issue Q1: Order of Topics. Options presented in Mtg9 Paper 6:
  (a) As presently shown in Sections II, III, IV
  (b) Re-arranged with integrated topics first, then technical, economic/financial, social, environmental, geographic
  (c) Alternative re-arrangement approach (to be defined)

The Forum discussed the rationale for why topics would be ordered. One rationale could be that evidence and interviewees are grouped for efficiency in the assessment process. An alternative rationale could be that particular topics are addressed early in the assessment process in the interests of tabling particular evidence which may influence the structure and expectations for the remainder of the assessment. Option (b) is in line with this alternative rationale. Forum members favoured this approach, but proposed some minor variations which are reflected in Option (c) in Figure 2. The consensus of the Forum was to progress with Option (c) for Section II.

Mtg 9 Agreement 11: *It is agreed to progress with the order of topics for Section II that is shown as Proposed Variation 2 in Figure 2 in the HSAF Mtg9 minutes.*

When discussing Section IV during Agenda Item 8, the Forum also gave some consideration to order of topics, and this is captured in the notes under Agenda Item 8.

Mtg 9 Action 5: *The Forum Coordinator to apply the same approach agreed for Section II to the order of topics to Sections III and IV, recognizing that these sections may require some slight adjustments for which the rationale should be made apparent.*

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(a) Present Order of Topics		(b) Proposed Variation 1			(c) Proposed Variation 2		
II-1	Communications & Consultation	II-1	Communications & Consultation	Integrated	II-1	Communications & Consultation	Integrated
II-2	Demonstrated Need & Strategic Fit	II-9	Governance		II-9	Governance	
II-3	Siting & Design	II-13	Environmental & Social Impact Assessment & Management		II-2	Demonstrated Need & Strategic Fit	
II-4	Hydrological Resource	II-11	Integrated Project Management		II-3	Siting & Design	
II-5	Infrastructure Safety	II-2	Demonstrated Need & Strategic Fit		II-13	Environmental & Social Impact Assessment & Management	
II-6	Financial Viability	II-3	Siting & Design		II-11	Integrated Project Management	
II-7	Project Benefits	II-4	Hydrological Resource	Technical/ Economic	II-4	Hydrological Resource	Technical/ Economic
II-8	Economic Viability	II-5	Infrastructure Safety		II-5	Infrastructure Safety	
II-9	Governance	II-6	Financial Viability		II-6	Financial Viability	
II-10	Transboundary Rivers	II-7	Project Benefits		II-7	Project Benefits	
II-11	Integrated Project Management	II-8	Economic Viability		II-8	Economic Viability	
II-12	Procurement	II-12	Procurement		II-12	Procurement	
II-13	Environmental & Social Impact Assessment & Management	II-14	Project Affected Communities & Livelihoods	Social	II-14	Project Affected Communities & Livelihoods	Social
II-14	Project Affected Communities & Livelihoods	II-15	Indigenous Peoples		II-15	Indigenous Peoples	
II-15	Indigenous Peoples	II-16	Resettlement		II-16	Resettlement	
II-16	Resettlement	II-17	Labour & Working Conditions		II-17	Labour & Working Conditions	
II-17	Labour & Working Conditions	II-18	Cultural Heritage		II-18	Cultural Heritage	
II-18	Cultural Heritage	II-19	Public Health		II-19	Public Health	
II-19	Public Health	II-23	Biodiversity & Invasive Species	Environ-mental	II-23	Biodiversity & Invasive Species	Environ-mental
II-20	Project Catchment & Land Mgmt	II-24	Erosion & Sedimentation		II-24	Erosion & Sedimentation	
II-21	Reservoir Management	II-25	Water Quality		II-25	Water Quality	
II-22	Downstream Flow Regimes	II-20	Project Catchment & Land Mgmt	Geographic	II-20	Project Catchment & Land Mgmt	Geographic
II-23	Biodiversity & Invasive Species	II-21	Reservoir Management		II-21	Reservoir Management	
II-24	Erosion & Sedimentation	II-22	Downstream Flow Regimes		II-22	Downstream Flow Regimes	
II-25	Water Quality	II-10	Transboundary Rivers		II-10	Transboundary Rivers	

Figure 2 – Options considered for order of topics for Section II.

[*** Open issue – agreement on order of topics in Sections III and IV]

Cross-Section Issue Q2: Intent Statements. Options presented in Mtg9 Paper 6:

    (a) Provide in summary at front of Protocol section only
    (b) Provide in summary at front of Protocol section and at top of each topic page
    (c) Provide at top of each topic page only

Option (b) is the approach presented in the Draft Protocol August 2009 and in the HSAP Draft1 Final documents. A driver for varying this approach was to reduce repetition. Forum members did not feel that this was a critical issue, and the consensus agreement was for Option (c).

Mtg 9 Agreement 12: *It is agreed that the statements of topic description and intent will only appear in the Protocol sections at the topic of each topic page, and not in a summary at the start of each section.*

Cross-Section Issue Q3: Stakeholder Engagement Criteria. Options presented in Mtg9 Paper 6:

    (a) Retain stakeholder criteria as presently provided for in Protocol
    (b) Reduce topics in which stakeholder criteria appear (need to systematically review)

This issue was raised out of concern that there was some editing "creep" in reintroducing more stakeholder engagement and support criteria in the iterative redrafts between Forum Meetings 8 and 9. This issue is closely linked with the following issue about the appearance of "based on dialogue with directly affected stakeholders" in some topics. Attachment 1 was developed within Forum Meeting 9 to support consideration of this issue, and shows a comparison of stakeholder Involvement in HSAP Draft1 Final (Section II) compared to that documented as a Forum Meeting 8 agreement (shown in Mtg9 Paper 2a).

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Observations from Attachment 1 are that in Forum Meeting 8 for many topics it was recommended to have references to consultation embedded in the language of the scoring statements rather than a distinct criterion to be scored, but that at that time the Forum was working to a different formatting approach. In the HSAP Draft1 Final documents, references to consultation embedded in the language of the scoring statements are considerably reduced from the Forum Meeting 8 agreement; in cases it is included in a Stakeholder Engagement criterion (sometimes with a more limited scope) and in cases it does not appear at all.

The consensus agreement of the Forum members was Option (a).

Mtg 9 Agreement 13: *It is agreed to retain the stakeholder criteria as presently provided for in the HSAP Draft1 Final documents.*

Cross-Section Issue Q4: "based on dialogue with directly affected stakeholders".
Options presented in Mtg9 Paper 6:
   (a) Remove from Protocol
   (b) Retain in selected topics without the Stakeholder Engagement criterion (II-2, II-5, II-20, II-21), and only at Level 5
   (c) Utilise more broadly across a number of topics (would need to identify)

Mtg9 Paper 5 provided the background and details on the inconsistency with which the phrase "based on dialogue with directly affected stakeholders" is used in the HSAP Draft1 Final. This paper recommended Option (b), and proposed specifications around how it should appear. The consensus agreement of the Forum was Option (b). It should be noted that a later meeting agreement (Mtg9 Agreement 32) removes topic II-20 Project Catchment & Land Management, so reference to this is removed in Mtg9 Agreement 14.

Mtg 9 Agreement 14: *It is agreed that the phrase "based on dialogue with directly affected stakeholders" will appear for the topics II-2 Demonstrated Need & Strategic Fit (Assessment criterion), II-5 Infrastructure Safety (Management criterion) and II-21 Reservoir Management (Assessment and Management criteria). Use of this phrase will be in the Level 5 scoring statements, and guidance will be provided as to with which stakeholders dialogue would be important.*

Cross-Section Issue Q5: Reference to Disclosure (Reports Public). Options presented in Mtg9 Paper 6:
   (a) Only address in Governance topic
   (b) Address in Governance topic and other specific topics (need to identify)

Disclosure received extensive discussion in Forum Meeting 9. It was noted that the Protocol is dealing with two dimensions of disclosure – (1) the public release of reports (this present issue); and (2) references to "commitments in plans being public, formal and legally enforceable". It was agreed that disclosure need not be its own criterion, but that these two dimensions could be captured under (1) the Stakeholder Engagement criterion and (2) the Management criterion respectively.

Mtg 9 Agreement 15: *It is agreed that Disclosure is not retained as its own criterion. Reference to public release of reports will be made under the Stakeholder Engagement criterion, and reference to commitments being public, formal and legally enforceable will be made under the Management criterion.*

Donal O'Leary from Transparency International (TI) advised that the trend is increasingly to provide as much information as possible to the public, and that this is highly important to TI for accountability. The TI position is for an approach consistent with the World Bank Disclosure Policy, that all information should be publicly available unless there is a real reason not to make such information available. Specifically, in the Protocol TI wants to see disclosure of information in the scoring statements for topics II-2, II-3, II-7, II-8, II-10, II-13, II-14, II-15, II-16, II-17, II-18, II-19, II-22, II-23, II-24, and II-25, as well as specific requirements for disclosure of

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Communications and Consultations Plans; Emergency Response Plans; Power Purchase Agreements (for level 5); Human Resources and Labour Management Policies and Plans; and Project Catchment and Land Management Plans.

In the HSAP Draft1 Final, disclosure is only addressed in the Governance topic, with a stakeholder engagement criterion at Level 5 to ensure the business engages with its stakeholders to understand what is of high interest to them:

- (Level 3): The business makes significant project reports publicly available, and publicly reports on project performance, in some sustainability areas.
- (Level 5): The business makes significant project reports publicly available, and publicly reports on project performance, in sustainability areas of high interest to its stakeholders.

Discussion points included what "publicly available" means in practice. Is it disclosure on demand, or a requirement for all project information to be released publicly? If it is expected that everything is put out in the public domain, substantial editing will take place which may mean a real loss of information to internal decision-makers. Does "everything" include lab reports, raw data etc? If so, there are likely to be concerning issues with over-reactive behaviour if there is no ability to provide analysis and interpretation. The Forum was advised that in the public administration in Norway everything is assumed to be in the public interest, but release of information to the public must be on request. The Forum was advised that the new World Bank policy (effective 1st July 2010) has adopted an approach which will default to full disclosure, except for that information which has been included in a list of exceptions (these exceptions include for example information considered confidential or records of deliberative processes).

The Forum after some discussion outlined a more detailed list of options, and indicated preferences and possible alternative preferences:

(a) Address only in Governance topic (information of high interest to stakeholders are made available)

(b) Address only in Governance topic with a short list specified: ESIA&M reports, Emergency Response plans

(c) Address only in Governance topic with a long list specified: ESIA&M reports, Emergency Response plans, plus other (e) items

(d) Address in Governance topic and other topics: ESIA&M and Infrastructure Safety (Emergency Response Plans)

(e) Address in Governance topic and other topics: ESIA&M and Infrastructure Safety (Emergency Response Plans), H&R policies, Project catchment and land management plans, Power Purchase Agreement

(f) Most topics have a Disclosure criterion requiring major reports to be publicly available, plus additional information on request

Preferences were expressed across most of the options presented. Retaining the approach in the Governance topic was agreed by all, and there was strong support for disclosure of the ESIA and associated management plans, with the divergence arising with respect to which other topics should be specifically identified as requiring disclosure of information regardless of whether stakeholders are asking for it or not.

Mtg 9 Agreement 16: *It is agreed that the approach to disclosure of information to stakeholders in the HSAP Draft1 Final under the Governance topic is retained.*

Given the wide variation in views and the observation that some of the options outlined do not need to be retained, it was agreed that Andrew Scanlon and Donal O'Leary would produce a more consolidated list of options to re-present to the Forum for a decision. The following is the consolidated list, and the Forum members considered their positions on each of these proposals individually:

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II-2 Demonstrated Need & Strategic Fit
    (a) Add public disclosure requirement, could be in ESIA (Level 3)
    (b) Add public disclosure requirement, could be in ESIA (Level 5)
    (c) Not added, present wording (stakeholder dialogue in Level 5 score) sufficient

The reference that it could be in the ESIA was with respect to many Environmental and Social Impact Assessment documents require identification of how the project meets identified needs and relevant policies. The first round of consideration showed a spread of preferences across the three options, with no majority view. A second round of consideration showed a willingness to move by some members (GH abstained) and not by others. The way forward proposed for the Draft2 Final text is to present Option (b), the final majority view, and record the divergent views of MS and DOL.

Mtg 9 Action 6: *The Forum Coordinator will add reference to public disclosure for topic II-2 Demonstrated Need & Strategic Fit at the Level 5 scoring statement; divergent views will be noted.*

[*** Divergent views – public disclosure of analysis of demonstrated need and strategic fit for topic II-2 Demonstrated Need & Strategic Fit at Level 5 – MS and DOL believe it should be required at Level 3]

II–5 Infrastructure Safety
    (a) Accept recommendation: moving Level 5 Management criterion elements to Level 3: "safety management plans and processes have been developed in conjunction with relevant regulatory authorities…" and "plans include emergency response plans and processes supported by awareness and training programs and emergency response practice exercises"
    (b) No change

A first round of consideration showed a divergence of views, with Option (a) the majority. A second round of consideration showed reluctance of the minority views to move (DH and GH abstained). The way forward proposed for the Draft2 Final text is to present Option (a), the final majority view, and record the divergent views held by JH and RAM.

Mtg 9 Action 7: *The Forum Coordinator will move Level 5 Management criterion elements in topic II-5 Infrastructure Safety to Level 3: "safety management plans and processes have been developed in conjunction with relevant regulatory authorities…" and "plans include emergency response plans and processes supported by awareness and training programs and emergency response practice exercises"; divergent views will be noted.*

[*** Divergent views – references to plans developed in conjunction with regulatory authorities and include emergency response practice exercises for topic II-5 Infrastructure Safety at Level 3 – JH and RAM believe it should be required at Level 5]

II–7 Project Benefits
    (a) Add disclosure of project benefit commitments (Level 3)
    (b) Add disclosure of project benefit commitments (Level 5)
    (c) Not added

The first round of consideration showed a strong majority view for Option (a), with two minority views for Option (b). A second round of consideration resulted in a Forum consensus to progress with the majority view Option (a).

Mtg 9 Agreement 17: *Topic II-7 Project Benefits will have reference to disclosure of project benefit commitments in the Level 3 statements.*

II–8 Economic Viability
    (a) For projects where public sector finance is involved, add disclosure of economic viability analysis (Level 3)
    (b) Don't add

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→ (c) added in second round of consideration - For projects where public sector finance is involved, add disclosure of economic viability analysis (Level 5)

The first round of consideration showed a split of preferences between Options (a) and (b). The second round of consideration showed a willingness to move to a compromise option (c) - disclosure at Level 5 - by several Forum members. The way forward proposed for the Draft2 Final text is to present Option (c), the compromise position, and record divergent views.

Mtg 9 Action 8: *The Forum Coordinator will add reference to public disclosure of the economic viability analysis for topic II-8 Economic Viability at the Level 5 scoring statement; divergent views will be noted.*

[*** Divergent views – public disclosure of the economic viability analysis for topic II-8 Economic Viability at Level 5 – DOL believes it should be required at Level 3, and AS does not believe it should be disclosed at all]

II–14 Project Affected Communities, II–15 Indigenous Peoples, II–16 Resettlement
(a) Add formal agreements publicly disclosed (Level 3)
(b) Don't add

The consensus agreement of the Forum members was Option (a).

Mtg 9 Agreement 18: *Topics II–14 Project Affected Communities, II–15 Indigenous Peoples, and II–16 Resettlement will have reference to public disclosure of formal agreements in the Level 3 statements.*

II–22 Downstream Flow Regimes
(a) At Level 3, "where formal commitments have been made, these are publicly disclosed"
(b) Keep at Level 5

The consensus agreement of the Forum members was Option (a). It was noted that this should be clear that it is not implying that a formal commitment is required at a Level 3.

Mtg 9 Agreement 19: *Topic II–22 Downstream Flow Regimes will have reference in the Level 3 statement to "where formal commitments have been made, these are publicly disclosed".*

Cross-Section Issue Q6: Reference to Independent Review. Options presented in Mtg9 Paper 6:
(a) Only in topic II-13 Environmental & Social Impact Assessment & Management
(b) In a number of specific topics (need to identify)

In the HSAP Draft1 Final, reference to independent review is only in topic II-13 with reference to review of the Environmental Management System for certification against ISO 14001. In the redrafting process, independent review had been proposed for a number of topics, as well as reference to Panel of Experts for some topics. These were not incorporated into the Draft1 Final documents on the expectation that more specific proposals could be developed and agreed on at Forum Meeting 9. Consequently in the first round of consideration of this question, there was a consensus agreement on Option (b). Joerg Hartmann and Refaat Abdel-Malek took the assignment to develop more specific proposals and bring them back into the meeting.

The first set of options related to question of in which topics and at what level references to independent review would be made. Options were:

(a) II-13 E&SIA&M, II-3 Siting & Design, II-5 Infrastructure Safety, II-11 Integrated Project Management
(b) II-9 Governance - those with critical issues and lack of internal expertise (need right wording)
(c) II-13 E&SIA&M at Level 5; II-5 Infrastructure Safety and II-9 Governance topic at Level 3

The consensus agreement of the Forum members was Option (c). Discussion points included questions about what is considered independent. It was noted that regulatory review will always

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take place, and financial institutions will also often do their own review. Independent could be someone not employed by the project, that is, with no financial interest, although this leads to a dilemma with consultants who are paid to do the review and may have an interest in more business. Expert is also an issue; the assessor will not know who is an expert in-house, and if this is sufficient or if there is a need for external independent review. The Forum members were reluctant to be too prescriptive, given that very small projects or those with high levels of internal expertise should not be required to have independent review where it does not add any value. There was some favour for a materiality test such as that used for disclosure in the Governance topic.

Mtg 9 Agreement 20: *It is agreed that reference to independent review will be found in topic II-13 Environmental & Social Impact Assessment & Management in the Level 5 statement; and in topics II-5 Infrastructure Safety and II-9 Governance in the Level 3 statements.*

Mtg 9 Action 9: *Joerg Hartmann and Donal O'Leary to propose wording for topic II-9 Governance that would specify under what conditions and for which topics independent review should be expected for the project.*

Mtg 9 Action 10: *The Forum Coordinator will ensure there are definitions for "independent review" and "expertise" in the Glossary of Terms.*

[*** Open issue – agreement on how independent review is addressed in topic II-9 Governance]

An additional point of consideration was if specific reference to a Panel of Experts should be in the Protocol scoring statements. Options considered were:

(a) Non-prescriptive on type of independent review (with examples in guidance notes)
(b) Specific requirement for Panel of Experts

The consensus agreement of the Forum members was Option (a).

Mtg 9 Agreement 21: *It is agreed that the Protocol will not make prescriptive statements in the topic scoring statements on the type of independent review that should be provided, but rather will provide examples in the Assessment Guidance notes.*

Cross-Section Issue Q7: Reference to International Standards. Options presented in Mtg9 Paper 6:

(a) Provide for as appropriate in the Protocol (need to indicate topics and standards)
(b) Do not indicate in Protocol scoring statements, provide information in Protocol Supplement

In the Protocol redrafting process, topics for which references to international standards were proposed included II-5 Dam & Infrastructure Safety, II-13 Environmental & Social Impact Assessment & Management, II-17 Labour & Working Conditions, II-18 Cultural Heritage, and II-19 Public Health. It was noted that for topic II-13, reference to ISO 14001 was provided only in the context of certification (see Q8 below). Reservations were around the fact that it was not always clear what international standards were being referred to, and in some cases national standards may be better than international. It was noted that the IFC Performance Standards do not refer to specific international standards, but rather provide content that may be derived from recognised international standards. Attention was called to the approach applied for topic II-17, where particular labour rights from the Ruggie Framework for Business and Human Rights are listed in the assessment guidance, rather than providing a reference to the Ruggie Framework. For the interest of Forum members, the NGOs advised that they are looking at a comparison of the HSAP Draft1 Final with WCD, IFC Performance Standards, and World Bank Safeguard Policies. The Forum members indicated that they could provide qualified support for Option (b), with the qualification being that the Protocol Introduction provides some statements about how international standards are considered in the Protocol documents and the Supplement. The options were re-presented as follows:

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(a) Specifically referred to in topic scoring statements
(b) Not referenced in Protocol scoring statements, introduced in Introduction, provide more information in HSAP Knowledge Base

The consensus agreement of the Forum was Option (b), noting the exception of the reference to ISO 14001.

Mtg 9 Agreement 22: *It is agreed that specific international standards will not be referred to in the Protocol documents with the exception of ISO14001. The Protocol Introduction will provide text on how international standards have guided Protocol content, and how these are elaborated on in the HSAP Knowledge Base.*

[*** Open issue – agreement on how international standards are referenced in the Protocol Introduction and Knowledge Base]

Cross-Section Issue Q8: Reference to Certification. Options presented in Mtg9 Paper 6:
(a) Provide for as appropriate in the Protocol (need to indicate topics and provide guidance)
(b) Provide for only for topic II-13 Environmental & Social Impact Assessment & Management (ISO 14001)

The consensus agreement of the Forum was Option (b).

Mtg 9 Agreement 23: *It is agreed that reference to certification will only be in topic II-13 Environmental & Social Impact Assessment & Management, with respect to certification of the Environmental Management System to ISO14001 as a Level 5 statement.*

Cross-Section Issue Q9: High Profile & Cross-Cutting Issues. Options presented in Mtg9 Paper 6:
(a) Provide on each topic page, as well as summary mapping in Introduction
(b) Remove from topic page, provide only in summary mapping in Introduction
(c) Remove from topic page, provide in summary mapping in front of each Protocol section

The consensus agreement of the Forum was Option (b), on the understanding that information about the high profile and cross-cutting issues is provided in the Knowledge Base. Michael Simon abstained from voting, and advised that his view was linked to how strongly the Knowledge Base is linked to the Protocol.

Mtg 9 Agreement 24: *It is agreed that reference to high profile and cross-cutting issues will be provided in (1) the Protocol Introduction, where a mapping of how these issues are addressed in the Protocol is provided; and (2) in the Knowledge Base, where more information on each of these issues is provided.*

Cross-Section Issue Q10: Reference to Budget. Options presented in Mtg9 Paper 6:
(a) Only referred to in Basic Good Practice definition for Management, and in Financial Viability topic
(b) Included in scoring statements for Management criterion in a number of topics (need to identify)

The consensus agreement of the Forum was Option (a), noting the earlier agreement (Mtg9 Agreement 6) that the Basic Good Practice definition for management is now merged into Table 3.

Mtg 9 Agreement 25: *It is agreed that references to budget will appear only in Table 3 under basic good practice management, and in the Financial Viability topic.*

Cross-Section Issue Q11: Cross-References on Topic Pages. Options presented in Mtg9 Paper 6:
(a) Topic cross-references indicated wherever relevant on topic pages

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    (b) Topic cross-references to Transboundary topic indicated where relevant on topic pages (only if Transboundary Topic is removed, to be discussed in Agenda Item 7)

    (c) No topic cross-references indicated

The consensus agreement of the Forum was Option (c).

Mtg 9 Agreement 26: *It is agreed that topic cross-references will not be provided in the Protocol.*

AGENDA ITEM 7 – HSAP DRAFT1 FINAL - SECTION II

Mtg9 Agenda Item 7 addressed issues arising in the redrafting of Section II. Mtg9 Paper 7, HSAP Draft1 Final Section II, lists these issues and outlines decision options. All of these are linked to text on the relevant topic page in Mtg9 Paper 7 that gives some background to the issues raised, so this background on each topic and issue is not repeated here.

In the meeting these topics and issues were discussed in an order of priority, but below they are listed in order in which they appear in Section II. The following topics were considered and agreements made. Only those requiring a change to the HSAP Draft1 Final text are listed as formal meeting agreements. Many of these decisions are equally relevant to Sections III and IV, and are assumed to be carried over to these sections as appropriate.

II-1 Communications & Consultation

II-1 Q1: Topic name. Options presented in Mtg9 Paper 7:

    (a) "Communications & Consultation";
    (b) "Stakeholders & Communication".

The consensus agreement of the Forum members was Option (a), with no change required to the Protocol text.

II-1 Q2: Topic scope. Options presented in Mtg9 Paper 7:

    (a) external communications only
    (b) internal and external.

After the first round of consideration, only one Forum member favoured Option (a). On the second round of consideration this Forum member was willing to move to the majority view. The consensus agreement of the Forum members was Option (b), with no change required to the Protocol text.

II-2 Demonstrated Need & Strategic Fit

II-2 Q1: Header statements. Options presented in Mtg9 Paper 7:

    (a) Draft Protocol: "This topic addresses the contribution of the project towards meeting demonstrated needs; local, regional and national development objectives; and regional and national policies and plans. The intent is that the need for the project can be demonstrated, as well as the strategic fit with regional and national policies and plans.
    (b) As in Draft1 Final.

Some of the discussion points included whether "need" is auditable; if there is an energy intensive off-taker such as an aluminium smelter is this a demonstrated need; and that energy demand projections should be added as an example of evidence. An Option (c) was added after the first round of consideration, that a re-edit is required centred around a clearer definition of need. The consensus agreement of the Forum members was Option (c).

Mtg 9 Agreement 27: *It is agreed to re-edit the introductory statements in topic II-2 Demonstrated Need & Strategic Fit in a manner that provides a clearer and auditable definition of "need".*

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II-2 Q2: "Need". Options presented in Mtg9 Paper 7:

(a) Do not use the word at all, and replace with more specific clarification; this would require a change in the topic title.
(b) Retain use of the word, and provide definition in Assessment Guidance.

The consensus agreement of the Forum members was Option (b).

Mtg 9 Action 11: *The Forum Coordinator to ensure a clear definition of "need" is provided in the assessment guidance to topic II-2 Demonstrated Need & Strategic Fit.*

[*** Open issue – agreement on how "need" is presented in topic II-2 Demonstrated Need & Strategic Fit]

II-3 Siting & Design

II-3 Q1: Emphasis on Avoidance. Options presented in Mtg9 Paper 7:

(a) Edit header statements and scoring statements to give more emphasis to avoidance.
(b) As in Draft1 Final.

The consensus agreement of the Forum members was Option (b), with no change required to the Protocol text.

II-4 Hydrological Resource

II-4 Q1: Topic Scope. Options presented in Mtg9 Paper 7:

(a) Limit to hydrological input. Note Draft Protocol header statements: This topic addresses the level of understanding of the hydrological resource availability and reliability to the project, and the planning for short- and long-term management of this resource. The intent is that hydrological resource availability and reliability for the project's planned power generation are understood and optimally planned for in the short- and long-term, taking into account climate change and likely future trends that could directly affect the project.
(b) As in Draft1 Final.

The consensus agreement of the Forum members was Option (b), with no change required to the Protocol text.

II-5 Infrastructure Safety

II-5 Q1: Outcomes. Options presented in Mtg9 Paper 7:

(a) Absolute outcome measures (to be defined)
(b) Process–oriented outcome measures (as in Draft1 Final)

The Forum members discussed whether more absolute measures of safety could be identified in the Outcomes statements. There is no widely recognised international standard that broadly applies to dam and infrastructure safety. There are standards for elements of dam safety, and lots of variability in what standards are used. The consensus agreement of the Forum members was Option (b), with no change required to the Protocol text, but to provide in the assessment guidance examples of indicators of safety performance.

Mtg 9 Action 12: *Refaat Abdel-Malek and Richard Taylor to provide examples of indicators of safety performance in the assessment guidance to topic II-5 Infrastructure Safety.*

II-6 Financial Viability

II-6 Q1: Intent statement. Options presented in Mtg9 Paper 7:

(a) Draft Protocol: This topic addresses both access to finance, and the ability of a project to generate the required financial returns to meet project funding requirements, including funding of measures aimed at ensuring project sustainability. The intent is that projects proceed with a sound financial basis that covers all project funding requirements

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including social and environmental measures, and enables a profit and a return to shareholders/investors.

    (b) As in Draft1 Final.

The consensus agreement of the Forum members was Option (b), with no change required to the Protocol text.

II-8 Economic Viability

II-8 Q1: "costs to other water services and uses". Options presented in Mtg9 Paper 7:

    (a) Intent of the comment adequately addressed in the approach below
    (b) Include explicitly in the Level 5 scoring statement for the Assessment criterion
    (c) Include in both the Level 3 and 5 scoring statements for the Assessment criterion

The consensus agreement of the Forum members was Option (a), with no change required to the Protocol text.

II-8 Q2: "rate of return". Options presented in Mtg9 Paper 7:

    (a) Retain in the scoring statements
    (b) Need to modify

The consensus agreement of the Forum members was Option (a), with no change required to the Protocol text.

Mtg 9 Action 13: *Joerg Hartmann to provide explanation of "rate of return" in the context of an economic viability assessment in the assessment guidance to topic II-8 Economic Viability.*

II-9 Governance

II-9 Q1: General approach to topic. Options presented in Mtg9 Paper 7:

    (a) Sufficient for Final Protocol
    (b) Needs further work

In the first round of consideration, Donal O'Leary expressed strong concerns about the re-edits that had been undertaken on the Governance topic since the previous version that he had reviewed. These edits were to get better equivalence in approach across all Protocol topics in response to the auditor review (Mtg9 Paper 2e). Andrew Scanlon and Donal O'Leary worked on the Governance topic throughout Forum Meeting 9, and re-presented proposed text for this topic that on the second round of consideration was well-received by the Forum members, pending finding the right expression for reference to independent review (see Mtg9 Action 8). Attachment 2 presents the proposed re-edits developed during Forum Meeting 9.

Mtg 9 Agreement 28: *It is agreed to re-edit topic II-9 Governance in line with the text proposed at Forum Meeting 9.*

II-10 Transboundary Rivers

II-10 Q1: Topic Inclusion. Options presented in Mtg9 Paper 7:

    (a) Retain as a topic with edits taking emphasis off the developer's role
    (b) Significantly edit or add guidance so that it highlights important sustainability issues without encroaching on national government responsibilities
    (c) Remove as a topic and address through guidance in other relevant topics

Forum members agreed that the transboundary issue is a very important topic with respect to utilisation of water resources and hydropower development in international rivers. Points of common thinking included that hydropower projects located on transboundary rivers should not cause significant harm to affected riparian countries; that relevant countries and stakeholders should communicate and cooperate positively with regard to hydropower utilisation of the shared water resources; and that if a treaty exists it should be complied with. Forum

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members noted that there is a body of international law pertinent to "shared watercourses", and that this is a World Commission on Dams strategic priority.

Concerns were with the practicability of the transboundary topics as presented in the HSAP Draft1 Final, and whether even the Level 3 statements were possible to be realised. International rivers are a sensitive issue in many regions of the world, and involve multiple governments. The Forum was advised that involvement in the assessment, and engagement in development of management plans, by multiple governments and stakeholders would be very difficult to reach in many situations.

The consensus agreement was Option (b), with Michael Simon abstaining. Several Forum members (Cathleen Seeger, David Harrison, Helen Locher) worked on the edits to this topic throughout Forum Meeting 9, and the Forum members discussed variations to the approach several times, with the eventual proposal to have the criteria Assessment, Management, Conformance/Compliance, and Outcomes as shown in Attachment 3. Identified to be missing is reference to a basin governance structure, and a means to recognise those regions where an international river basin organisation has been put in place. Option (c) was agreed as the fallback approach if major concerns remain with the proposed re-edits.

Mtg 9 Agreement 29: *It is agreed to re-edit topic II-10 Transboundary Rivers in line with the text proposed at Forum Meeting 9.*

Mtg 9 Action 14: *Richard Taylor to test views on the proposed revisions to topic II-10 Transboundary Rivers.*

[*** Open issue – final approach to transboundary rivers in the Protocol]

II-10 Q2: Topic Name. Options presented in Mtg9 Paper 7:
- (a) Transboundary Rivers
- (b) Transboundary Issues

This issue was not specifically discussed in Forum Meeting 9. It is assumed that Forum members are happy to go with the default decision, which was option (a), requiring no change to the topic name.

II-10 Q3: Stakeholder Engagement. Options presented in Mtg9 Paper 7:
- (a) Include governments and directly affected stakeholders at Level 5
- (b) Only include governments

The revised text proposed for the Transboundary Rivers topic removes Stakeholder Engagement as a criterion, and so this question was not considered.

II-12 Procurement

II-12 Q1: Topic name. Options presented in Mtg9 Paper 7:
- (a) Procurement
- (b) Contracts & Acquisition

The consensus agreement was Option (a), with no change to the topic name. It was proposed that translators should find appropriate alternative expressions if there are translation difficulties with the word "procurement".

II-13 Environmental & Social Issues Assessment & Management

II-13 Q1: Human rights. Options presented in Mtg9 Paper 7:
- (a) No reference to human rights in the scoring statements, provide for in guidance notes in list of social issues.
- (b) Level 5 scoring statement for Social Impact Assessment refers to incorporating human rights.

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There was some cautious interest in Option (b), subject to getting a better understanding of how SIAs do incorporate human rights. The recommendation from the auditor review (Mtg9 Paper 2e) was "SIAs are designed and results presented using a human rights framework". This was strongly linked to the overall approach of the Protocol to human rights recommended in Mtg9 Paper 2e, which centred around the Protocol Introduction explaining that "human rights" is an umbrella term for much of the content of the Protocol topics and high profile/cross-cutting issues.

Mtg 9 Action 15: *The Forum Coordinator to provide web links to some Social Impact Assessments (SIAs) that have taken or incorporated a human rights analytical approach, to assist in forming a view on whether the Level 5 scoring statement in topic II-13 Environmental & Social Issues Assessment & Management should require a human rights approach to the SIA.*

Mtg 9 Action 16: *The Forum Coordinator to provide the text in the HSAP Draft2 Final Introduction that explains how human rights are addressed in the Protocol.*

[*** Open issue – approach to human rights in the Protocol Introduction, and reference to a human rights approach for the Social Impact Assessment in topic II-13 Environmental & Social Issues Assessment & Management]

II-13 Q2: Certification. Options presented in Mtg9 Paper 7:
   (a) No mention in topic statement
   (b) Include certification to ISO 14001 in Level 5 scoring statement.

The consensus agreement of the Forum members was Option (b). It was noted that in Section II this should be with respect to planning the EMS so that ISO 14001 certification can be achieved in the next stage.

Mtg 9 Action 17: *The Forum Coordinator to ensure that topic II-13 Environmental & Social Impacts Assessment & Management refers to planning for ISO 14001 certification, whereas the following two sections assess whether this certification has been achieved.*

II-14 Project Affected Communities

II-14 Q1: General approach to topic. Options presented in Mtg9 Paper 7:
   (a) Sufficient for Final Protocol
   (b) Needs further work

In the first round of consideration, Michael Simon indicated that this topic and the following two topics (II-15 Indigenous Peoples and II-16 Resettlement) would benefit from further refinement. There were several points of concern, including lack of consistency with IFC Performance Standards and World Bank Safeguards Policies on splitting of economic and physical displacement; on language that might be viewed as paternalistic (e.g. "indigenous peoples issues management process"); on the absence of reference to grievance mechanisms or perhaps a misunderstanding of what these are; and on the confining of what consent is applicable to. Michael agreed to re-present the issues and editing options for these three topics (II-14, II-15, II-16) in a form that enabled decision-making by the Forum.

The re-presented options for topic II-14 were with specific reference to the wording of the Stakeholder Support criterion. Options were:

II-14 Project Affected Communities – Stakeholder Support Criterion
   (a) Present version: There is general support amongst project affected community groups for the assessment and planning for project affected communities, and/or no major or ongoing opposition by these stakeholders
   (b) Proposed revision1: There is general support amongst project affected community groups for the assessment and planning on issues of concern to project affected communities, and/or no major or ongoing opposition by these stakeholders

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(c) Proposed revision2: There is general support amongst project affected community groups for the assessment and planning on issues that may affect them, and/or no major or ongoing opposition by these stakeholders

The first round of consideration showed views spread across the three options, with a majority preference for Option (a). A second round of consideration showed unwillingness to move by all. The way forward proposed for the Draft2 Final text is to present Option (a), the present Draft1 Final text which is the majority view, and record the divergent views of MS, GH and JH.

Mtg 9 Action 18: *The Forum Coordinator to retain the present text under the Stakeholder Support criterion in topic II-14 Project Affected Communities"; divergent views will be noted.*

[*** Divergent views – wording of Stakeholder Support criterion for topic II-14 Project Affected Communities – MS believes support should be for "the assessment and planning on issues of concern to project affected communities", and GH and JH believe support should be for "the assessment and planning on issues that may affect them"]

II-15 Indigenous Peoples

Decision points and options presented in Mtg9 Paper 7:

II-15 Q1: General approach to topic.
   (a) Sufficient for Final Protocol
   (b) Needs further work

II-15 Q2: Consent.
   (a) Accept compromise formulation shown below
   (b) Requires further discussion and resolution

As noted above, Michael Simon from Oxfam felt this topic needed further work, and he re-presented the editing options in a form that enabled decision-making by the Forum. The re-presented options were with specific reference to the terminology in the Management criterion, and the wording of the Stakeholder Engagement and Stakeholder Support criteria at both levels 3 and 5. The following shows the decision points, options, considerations of Forum members, and proposed outcomes.

II-15 Indigenous Peoples – Management Criterion and Assessment Guidance
   (a) No change (present Management text reads "Plans and processes have been developed for project implementation and operation to address indigenous peoples issues in relation to the project")
   (b) Change references to "indigenous peoples issues" to "issues of concern identified by indigenous peoples" in Management criteria plus in Assessment Guidance
   (c) Change references to "indigenous peoples issues" to "issues that may affect indigenous peoples" in Management criteria plus in Assessment Guidance

The first round of consideration showed views spread across the three options, with the majority split between Options (a) and (b). A second round of consideration showed a willingness to move by several Forum members to any wording if it is clear that everyone can raise any issues (see Stakeholder Engagement considerations below, showing this is satisfied), and an unwillingness to move by others. The way forward proposed for the Draft2 Final text is to present option (c) to which the majority are willing to move, and record the divergent views of AS, DOL and MS.

Mtg 9 Action 19: *The Forum Coordinator to revise the text under the Management criterion and Assessment Guidance in topic II-15 Indigenous Peoples from reference to "indigenous peoples issues" to "issues that may affect indigenous peoples"; divergent views will be noted.*

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[*** Divergent views – wording of Management criterion for topic II-15 Indigenous Peoples – AS believes plans and processes should address "indigenous peoples issues", and DOL and MS believe they should address "issues of concern identified by indigenous peoples"]

II-15 Indigenous Peoples – Stakeholder Engagement Criterion – Level 3 statements

(a) Present text for 3: The indigenous peoples issues management process involves appropriately timed, culturally appropriate two-way engagement with self-selected community representatives; ongoing processes are in place for indigenous peoples to raise issues and get feedback

(b) Proposed text for 3: The management process to address issues of concern identified by indigenous peoples involves appropriately timed, culturally appropriate two-way engagement with self-selected community representatives; ongoing processes are in place for indigenous peoples to raise issues and get feedback

(c) Proposed text for 3: The management process to address issues that may affect indigenous peoples involves appropriately timed, culturally appropriate two-way engagement with self-selected community representatives; ongoing processes are in place for indigenous peoples to raise issues and get feedback

(d) Proposed text for 3: Engagement with indigenous peoples has been appropriately timed, culturally appropriate and two-way with self-selected community representatives; ongoing processes are in place for indigenous peoples to raise issues and get feedback

It was noted that the same form of expression for Stakeholder Engagement is used across all Protocol topics, and that it would make sense to make some refinement to this when the object is people and not things. The consensus agreement of the Forum members was Option (d).

Mtg 9 Agreement 30: *It is agreed to re-edit the Stakeholder Engagement Level 3 statement in topic II-15 Indigenous Peoples to read "Engagement with indigenous peoples has been appropriately timed, culturally appropriate and two-way with self-selected community representatives; ongoing processes are in place for indigenous peoples to raise issues and get feedback". A similar approach will be taken for the Stakeholder Engagement criterion for topics II-14 and II-16.*

II-15 Indigenous Peoples – Stakeholder Engagement Criterion – Level 5 statements

(a) Present text for 5: The assessment and planning for indigenous peoples issues has involved appropriately timed, culturally appropriate, inclusive, and participatory two-way engagement with self-selected community representatives

(b) Proposed text for 5: The assessment and planning with indigenous peoples on issues of concern to them has involved appropriately timed, culturally appropriate, inclusive, and participatory two-way engagement with self-selected community representatives

(c) Proposed text for 5: Engagement with indigenous peoples has been appropriately timed, culturally appropriate, inclusive, participatory and two-way with self-selected community representatives

The consensus agreement of the Forum members was Option (c), following the approach captured by Mtg9 Agreement 30. However because of Mtg9 Agreement 3 the Level 5 statement will only say what is different from Level 3, and so this issue will no longer be relevant.

II-15 Indigenous Peoples – Stakeholder Support Criterion – Level 3 statements

(a) Present text for 3: There is general support amongst directly affected indigenous groups for the assessment and planning for indigenous peoples issues, and/or no major or ongoing opposition by these stakeholders

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(b) Proposed alternative for 3: There is general support amongst directly affected indigenous groups for the assessment and planning on issues of concern identified by them, and/or no major or ongoing opposition by these stakeholders

(c) Proposed alternative for 3: There is general support amongst directly affected indigenous groups for the assessment and planning on issues that may affect them, and/or no major or ongoing opposition by these stakeholders

The first round of consideration showed a spread of preferences across the three options, with the majority split between Options (b) and (c). A second round of consideration showed unwillingness to move by all. The way forward proposed for the Draft2 Final text is to present Option (c) for which one industry representative is aligned with non-industry views, because the other industry representative was the sole preference for Option (a), and record the divergent views of AS, DH, DOL and MS.

Mtg 9 Action 20: *The Forum Coordinator to revise the Level 3 statement for the Stakeholder Support criterion in topic II-15 Indigenous Peoples to read "There is general support amongst directly affected indigenous groups for the assessment and planning on issues that may affect them, and/or no major or ongoing opposition by these stakeholders"; divergent views will be noted.*

[*** Divergent views – wording of Stakeholder Support criterion for topic II-15 Indigenous Peoples Level 3 statement – DH, DOL and MS prefer that support of indigenous groups is for the assessment and planning on "issues of concern identified by them", and AS prefers it is for "indigenous peoples issues"]

II-15 Indigenous Peoples – Stakeholder Support Criterion – Level 5 statements
  (a) Present text for 5: There is consent with legally binding agreements by the directly affected indigenous peoples for indigenous peoples management plans

  (b) Proposed text for 5 (variation 1): Consent has been sought and gained by directly affected indigenous groups for the project, management plans and processes on issues of concern to them

  (c) Proposed text for 5 (variation 2): Consent has been sought and gained by directly affected indigenous groups for the management plans on issues that may affect them

The first round of consideration showed a spread of preferences across the three options, with the majority preference being Option (c). A second round of consideration showed unwillingness to move by all. The way forward proposed for the Draft2 Final text is to present Option (c) which is the majority view, and to record the divergent views of DOL, MS, AS and RAM.

Mtg 9 Action 21: *The Forum Coordinator to revise the Level 5 statement for the Stakeholder Support criterion in topic II-15 Indigenous Peoples to read "Consent has been sought and gained by directly affected indigenous groups for the management plans on issues that may affect them"; divergent views will be noted.*

[*** Divergent views – wording of Stakeholder Support criterion for topic II-15 Indigenous Peoples Level 5 statement – DOL and MS prefer "Consent has been sought and gained by directly affected indigenous groups for the project, management plans and processes on issues of concern to them", and AS and RAM prefer "There is consent with legally binding agreements by the directly affected indigenous peoples for indigenous peoples management plans"]

II-16 Resettlement

II-16 Q1: General approach to topic. Options presented in Mtg9 Paper 7:
  (a) Sufficient for Final Protocol
  (b) Needs further work

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As noted above, Michael Simon from Oxfam felt this topic needed further work, and he re-presented the editing options in a form that enabled decision-making by the Forum. The re-presented options were with specific reference to the terminology in the Management criterion, and the wording of the Stakeholder Support criterion at both levels 3 and 5. The following shows the decision points, options, considerations of Forum members, and proposed outcomes.

II-16 Resettlement – Management Criterion

    (a) Change references to "Resettlement Action Plan" to "resettlement plans and processes"
    (b) No change

The consensus agreement of the Forum members was Option (b), provided that a definition of Resettlement Action Plan was provided that indicated it could be a single document or a set of documents.

Mtg 9 Action 22: *The Forum Coordinator to provide a definition of Resettlement Action Plan in the assessment guidance notes for topic II-16 Resettlement, advising that this is a document or set of documents specifically developed to identify the actions that will be taken to address resettlement.*

II-16 Resettlement – Stakeholder Support Criterion – Level 3 statements

    (a) Present text for 3: There is general support amongst resettlees and host communities for the Resettlement Action Plan, and/or no major or ongoing opposition by these stakeholders

    (b) Proposed alternative for 3: There is general support amongst resettlees and host communities for the assessment and planning on issues of concern identified by them, and/or no major or ongoing opposition by these stakeholders

The first round of consideration showed a strong majority preference for Option (a), with only one divergent view preferring Option (b). A second round of consideration showed an unwillingness to move preferences. The way forward proposed for the Draft2 Final text is to keep the present text, Option (a), which is the majority view. The divergent view will be noted.

Mtg 9 Action 23: *The Forum Coordinator to ensure that the divergent view on the Level 3 statement for the Stakeholder Support criterion in topic II-16 Resettlement is recorded.*

[*** Divergent view – wording of Stakeholder Support criterion for topic II-16 Resettlement Level 3 statement – MS believes that support of resettlees and host communities should be for "the assessment and planning on issues of concern identified by them"]

II-16 Resettlement – Stakeholder Support Criterion – Level 5 statements

    (a) Present text for 5: There is consent with legally binding agreements by the resettlees and host communities for the Resettlement Action Plan

    (b) Proposed text for 5 (variation 1): Consent has been sought and gained by resettlees and host communities for the project, management plans and processes on issues of concern to them

    (c) Proposed text for 5 (variation 2): Consent has been sought and gained by resettlees and host communities for the management plans and processes on issues that affect them

The first round of consideration showed a strong majority preference for Option (a), with only one divergent view preferring Option (b). A second round of consideration showed an unwillingness to move preferences. The way forward proposed for the Draft2 Final text is to keep the present text, Option (a), which is the majority view. The divergent view will be noted.

Mtg 9 Action 24: *The Forum Coordinator to ensure that the divergent view on the Level 5 statement for the Stakeholder Support criterion in topic II-16 Resettlement is recorded.*

[*** Divergent view – wording of Stakeholder Support criterion for topic II-16 Resettlement Level 5 statement – MS believes the wording should be "Consent has been sought and gained by

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resettlees and host communities for the project, management plans and processes on issues of concern to them"]

II-17 Labour & Working Conditions

II-17 Q1: General approach to topic. Options presented in Mtg9 Paper 7:

(a) Sufficient for Final Protocol
(b) Needs further work

The discussion focus was on the Level 5 Outcomes statement that "Plans are consistent with internationally recognised labour rights", and the listing of labour rights from the Ruggie Framework in the assessment guidance note. This was a consistent approach to that recommended by the auditor in Mtg9 Paper 2e on how human rights could best be addressed in the Protocol. The main question was what does this mean in practice, and does evidence need to be tabled against every right listed in the assessment guidance note? It was observed that most western legislation would pick up most of these rights, but that may not be the case in developing countries. It was felt that this might be easier in Section II, which is about plans, but may be more difficult to get evidence for Sections III and IV. The consensus agreement of the Forum members was Option (a), with no change required to the Protocol text. It was recognised that this may need some reconsideration for Sections III and IV.

Mtg 9 Action 25: *The Forum Coordinator to provide more clarity in the Assessment Guidance for topic II-17 Labour & Working Conditions and the equivalent topics in Sections III and IV on evidence that should be presented to demonstrate consistency with internationally recognised labour rights.*

[*** Open issue – guidance on how to demonstrate consistency with internationally recognized labour rights]

II-18 Cultural Heritage

II-18 Q1: Non-Physical Cultural Heritage. Options presented in Mtg9 Paper 7:

(a) Include under topic II-13, and topic II-18 relates to physical cultural heritage only
(b) Incorporate physical and non-physical cultural heritage into topic II-18

The Forum discussed observations from the Nam Theun II tour. This project has a program called "Physical Cultural Resources", and it was noted that this is consistent with the terminology in the IFC Performance Standard. The scope of the program covered natural sites (e.g. a forest glade) that had spiritual significance, and the project held appeasement ceremonies to the gods based on advice of the locals before any disturbance activities were undertaken. Based on this discussion, the options for this topic were re-presented to include reference to physical cultural resources, as follows:

(a) Topic II-18 relates to physical cultural heritage (historical, archaeological) only; topic II-13 covers rest
(b) Topic II-18 relates to physical cultural resources (e.g. historical, archaeological, sacred sites); topic II-13 covers non-physical (e.g. non object or site specific rituals)
(c) Incorporate all physical and non-physical cultural heritage into topic II-18

The consensus agreement of the Forum members was Option (b).

Mtg 9 Agreement 31: *It is agreed that topic II-18 Cultural Heritage will address physical cultural resources (e.g. historical, archaeological, sacred sites), and topic II-13 Environmental & Social Impact Assessment & Management will address non-physical (e.g. non object or site specific rituals).*

II-18 Q2: Stakeholder Criteria. Options presented in Mtg9 Paper 7:

(a) Retain Stakeholder Engagement and Stakeholder Support
(b) Remove Stakeholder Engagement and Stakeholder Support

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The consensus agreement of the Forum members was Option (a), with no change required to the Protocol text.

II-20 Project Catchment & Land Management

II-20 Q1: Topic Scope. Options presented in Mtg9 Paper 7:

(a) Retain as is.
(b) Retain topic structure and scope, but review grading to give more emphasis on directly affected land and most consequential catchment issues at Level 3, and indirectly affected land and broader catchment opportunities at Level 5; clarify through definitions that the focus is predominantly on land management although any catchment considerations could be included but not required at the 5 level.
(c) Remove reference to project land and deal with elsewhere

There were many dimensions to the discussion of this topic, and some dissatisfaction with its evolution through the redrafting process. Combining project lands with catchment management seemed to open it up too broadly and create potential confusion on boundaries. The overlap and interrelationships with other topics was considered highly problematic. Eventually an additional Option (d) was proposed, which was to remove the topic and ensure it is adequately addressed through other topics, specifically the land rehabilitation component dealt with under topic II-13 Environmental & Social Impact Assessment & Management, and considerations at the catchment level captured at the 5 level in many topics. It was particularly noted that topic II-1 Communications & Consultation should make reference to the value of catchment management committees as a vehicle for good project communications. The consensus agreement of the Forum members was Option (d), with Geir Hermansen abstaining.

Mtg 9 Agreement 32: *It is agreed that the Project Catchment & Land Management topic will be removed.*

Mtg 9 Action 26: *The Forum Coordinator to ensure that land rehabilitation is specifically required to be addressed under topic II-13 Environmental & Social Impact Assessment & Management, and that considerations at the catchment level are captured at the 5 level in many topics.*

[*** Open issue – review of how references to land rehabilitation and catchment management have been incorporated into other topics in the Protocol]

II-20 Q2: Topic Title. Options presented in Mtg9 Paper 7:

(a) Project Catchment & Land Management
(b) Project Land & Catchment Management
(c) Land Management

This question was no longer relevant given Mtg9 Agreement 32 above, and was not addressed.

II-21 Reservoir Management

II-21 Q1: Assessment guidance. Options presented in Mtg9 Paper 7:

(a) Sufficient
(b) Needs further development to guide cascade, multi-purpose, run-of-river, pump storage projects and/or to distinguish from land and catchment management

The consensus agreement of the Forum members was Option (a), with no change required to the Protocol text. There was some interest in removing the topic altogether and incorporating under Integrated Project Management, but it was agreed to keep it as it is.

Other Social Issues

General Proposal for Stakeholder Engagement for Topics II-14, II-15, II-16

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    (a) Change "the assessment and planning for …" to "the assessment and planning with…." to emphasise collaboration. (variant could be just at a 5 level)

    (b) No change

The consensus agreement of the Forum members was Option (a). However, this is no longer relevant because of Mtg9 Agreement 30 above.

Grievance Mechanisms:

The issue discussed was that the present wording under Stakeholder Engagement reflected in Table 3 and in the scoring statements for the three main social topics (II-14, II-15, II-16) is not capturing what is intended by grievance mechanisms. Options for how to progress with this were presented as:

    (a) No change

    (b) Reword under Table 3 and scoring statements to more explicitly refer to grievance mechanisms are in place (at level 3, no "in addition")

    (c) Keep present wording in Stakeholder Engagement, but in Governance topic at level 3 have grievance mechanisms with a focus on grievance resolution processes

    (d) Same as (c) but at level 5

This was subject to considerable discussion about what was meant by a grievance mechanism. The first round of consideration showed preferences spread across options (a), (b) and (c), with a strong majority preference for Option (c). The second round of consideration resulted in a consensus agreement to cautiously progress with Option (c) (Geir Hermansen abstained). It was agreed that wording would be proposed for the Governance topic (see Mtg9 Agreement 28 and Attachment 2).

[*** Open issue – review of how grievance mechanisms are presented in the Protocol]

AGENDA ITEM 8 – HSAP DRAFT1 FINAL - SECTION IV

Mtg9 Paper 8 presented the HSAP Draft1 Final Section IV.

This draft endeavours to address ongoing concerns that have been raised with Section IV by the IHA Reference Group. Significant concerns with the Draft Protocol August 2009 version included that it too closely resembled Section II and the requirements for project preparation; that it needed to be restructured to better reflect present business practice; that the focus should be on conformance and compliance with laws, regulations and licence conditions; and that it needs to accommodate both old and new plants. Efforts have been made to address these concerns through iterative redrafting between Forum Meetings 8 and 9, and it will be difficult to know how well they have been addressed until the IHA Reference Group has a chance to consider the Draft2 Final.

The Forum members spent some time in trying to understand what was different in the Draft1 Final compared to earlier versions. A number of wording changes and guidance notes were pointed out by the Forum Coordinator.

A particular discussion point in Forum Meeting 9 was around references to baseline and pre-project condition. Several topics only have relevance if the pre-project baseline is well-documented and commitments were made against this baseline – this is the case for Project Benefits, Project Affected Communities, and Resettlement. In the case of older operating facilities which may not have had a good pre-project baseline established, or commitments are unclear, the instruction is to treat any ongoing issues around these areas as a current issue. As a general approach, in Section IV the baseline is always considered the present circumstance unless there are clear commitments made against a well-established pre-project baseline. The Forum members thought that in the vast majority of cases with operating hydropower facilities that there would not be a well-established baseline, and that the present circumstance should

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be taken as the baseline. This is the approach taken in ISO 14001, in which the owner/operator routinely assesses risks relevant to the present condition and this forms the basis for management actions.

Risks relevant to the present condition may include legacy issues, where these are ongoing concerns to stakeholders and they want to see some measures taken to address them. Addressing legacy issues may not mean rectifying wrongs of the past, as in many cases changes incurred due to project development may not be able to be remediated. Cultural heritage is a case in point, for example if artefacts of heritage significance are lost. Actions that could be taken could be contributions to new initiatives recognising the importance of preserving heritage, for example support for creation of a museum, heritage festival, new research, etc.

Mtg 9 Agreement 33: *It is agreed that for operating hydropower facilities the present circumstance should be taken as the baseline. Risks should be assessed with respect to the present condition, and management actions formulated to address identified issues. Identified issues may include legacy issues.*

Mtg 9 Agreement 34: *It is agreed that for operating hydropower facilities if there is a well-established pre-project baseline and commitments made against this baseline, these commitments take precedence over using the present condition as the baseline until a point at which those commitments are considered fully delivered.*

Mtg 9 Action 27: *The Forum Coordinator to search for references to "baseline" and "pre-project condition" in Section IV, to ensure that the understanding established in Mtg9 Agreements 33 and 34 is very clear.*

Mtg 9 Action 28: *The Forum Coordinator to review the order of topics in Section IV, to see if it would assist understanding to group those topics which only have relevance if there is a well-documented pre-project baseline – Project Benefits, Project Affected Communities, Resettlement.*

The Forum members discussed the case of transfer of ownership, and whether commitments are carried over. The Forum members thought that this would be relevant to a small percentage of cases for operating hydropower facilities, but in principle that commitments should carry over. This would be best ensured where commitments are legally enforceable, for example embedded in the licence conditions for the operating facility. For absolute clarity, guidance notes that refer to commitments being those of the present owner/ operator could add the clause "or predecessor entity where those commitments are transferred to the new owner".

Mtg 9 Agreement 35: *It is agreed that for operating hydropower facilities if there is a change in ownership then commitments made with respect to performance of the facility against a pre-project baseline should transfer to the new owner.*

The Forum members discussed the case in which older projects make new commitments, and what is considered a "project benefit" in this context. Once operational, there is no longer a "project". The topic "Project Benefits" in Section IV is intended to address the case of commitments to regional benefits made at the time of project preparation and approval, and to ensure that these commitments were delivered and are sustainable. The Project Benefits topic is only relevant to the case in which the pre-project condition is well-established and commitments made at the time of project approval are well documented; "project benefits" does not appear in any other context within Section IV. For older projects, the Level 5 scores across most topics are rewarding those operating facilities that are looking for opportunities and implementing enhancements with respect to the present baseline.

The Forum members saw opportunities to minimise redundancy in the Draft2 Final Section IV. It was noted that Agreement 32 which removed topic II-20 Project Catchment & Land Management was also applicable to Section IV. It was also noted that having a Transboundary Rivers topic in Section IV may not be necessary, and that it should be evaluated to ensure it is not resulting in redundancy. Additionally:

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Mtg 9 Agreement 36: *It is agreed to remove topic IV-4 Markets, Innovation & Research in Section IV, and to merge the content into topic IV-6 Financial Viability.*

Mtg 9 Agreement 37: *It is agreed to remove topic IV-11 Procurement in Section IV, and to merge the content into topic IV-9 Governance.*

Mtg 9 Agreement 38: *It is agreed to remove topic IV-8 Economic Viability in Section IV, given that its purpose is for the cost-benefit analysis to provide an analytical framework to evaluate the net performance of a hydropower project before it is approved, and that the sustainability profile produced by a Protocol assessment effectively provides this analytical framework for operating hydropower facilities.*

Mtg 9 Agreement 39: *It is agreed to make topic IV-9 Governance similar to that in Section II, but that reference to independent review in the Governance topic (and in other topics) will not be directly specified in Section IV (it may still be relevant as a project commitment).*

The Forum members looked closely at the wording for topic IV-21 Downstream Flow Regimes, and made some recommendations that may set precedents for other wording approaches in other Section IV topics. These were individual recommendations and so are not recorded as consensus agreements, but are provided here to prompt consideration of these in the preparation of the Draft2 Final. Specific recommendations were:

- Intent statement: Remove the word "any"; replace "delivered" with "fulfilled"
- Conformance/Compliance: Remove the words "if relevant any"
- Outcomes: Remove "by the operator", and add at the end of the sentence "within practical constraints of the present circumstances"
- Assessment Guidance: generally provide guidance indicating that existing hydropower facilities should monitor and keep abreast of issues, and that these may relate to national or international policy changes, emerging practice within the industry, evolutions in standards, and site-specific physical or social changes. Examples of opportunities are helpful.

Another discussion point was about evaluating the sustainability of benefits delivered, with particular pertinence to those topics that evaluate delivery of pre-project commitments against a pre-project baseline - project benefits, project affected communities and resettlement. Are these commitments intended to be forever, or at what point are they considered self-sustaining and no longer linked to the project? Some guidance or clarity in Section IV would need to be provided.

The applicability of the Table 3 scoring guidance to Section IV was questioned. It is understood that Mtg9 Agreement 4 and Action 1 will take into account the applicability of this table to the Section III and Section IV application of the Protocol.

[*** Open issue – review of Section IV]

AGENDA ITEM 9 – HSAP DRAFT1 FINAL - SECTION III

The Forum members considered Mtg9 Paper 9, which provided notes about Section III. Although earlier drafts of Section III had been provided during the iterative redrafting between Forum Meetings 8 and 9, a Draft1 Final of Section III was not included in the meeting papers because high level decisions about the approach needed to be made before it could efficiently be produced. The Forum members agreed on a number of points to guide production of this section.

Mtg 9 Agreement 40: *It is agreed that the following considerations will guide production of the Draft2 Final for Section III:*

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- *Construction and implementation focused (e.g. implementation of the Resettlement Action Plan and other management plans);*
- *Assessment – wording should be focussed on asking if there is a good baseline, and if project impacts and management measures are being monitored*
- *Management – wording should emphasise implementation of management plans and processes; references to commitments and to dispute resolution processes are highly relevant.*
- *Stakeholder Engagement and Stakeholder Support – use the same approach as found in Section IV;*
- *Conformance and Compliance – these considerations are highly relevant to Section III*
- *Outcomes – wording should assess whether intended outcomes are "on track" to be met, or if major milestones are being met*
- *Assessment Guidance – emphasis is on issues and considerations relevant to construction and implementation*

The Forum members saw some opportunities to minimise redundancy in the Draft2 Final Section III. It was noted that Agreement 32 which removed topic II-20 Project Catchment & Land Management was also applicable to Section III. It was also noted that having a Transboundary Rivers topic in Section III may not be necessary, and that it should be evaluated to ensure it is not resulting in redundancy. Additionally:

Mtg 9 Agreement 41: *It is agreed to remove topic III-5 Economic Viability in Section III.*

The Forum members discussed the changing emphasis in the Reservoir Management topic between Sections II, III and IV, and noted that until Section IV there is not a reservoir to manage. There was a proposal for a name change across these three sections that was not formally agreed on in the meetings, so is captured here as an action to implement this approach and see if there is agreement to retain this once the Draft2 Final is reviewed.

Mtg 9 Action 29: *The Forum Coordinator to rename the topics presently titled Reservoir Management so that in Section II this is Reservoir Planning; in Section III this is Reservoir Preparation and Filling; and in Section IV this is Reservoir Management.*

[*** Open issue – review of Section III]

AGENDA ITEM 10 – HSAP DRAFT1 FINAL - SECTION I

The Forum members discussed the history of Section I that is captured in Mtg9 Paper 10, at the front of the HSAP Draft1 Final Section I. In contrast to Sections II, III and IV with a clear project focus, Section I has been conceptually challenging in that it addresses the pre-project situation with our without a specific project in mind. The Draft Protocol August 2009 version was met with many different impressions about its use and purpose; it was trialled with a wide diversity of focal areas (project, river basin, country), and in a diverse array of manners (audit-style, workshop-style, dialogue facilitation style), by diverse participants (industry, assessors, governments, NGOs, academics, river basin commissions). The Forum working group focusing on this section recommended it be simplified and tightened considerably to avoid confusion; consequently, the HSAP Draft1 Final Section I has a project focus for confidential assessment by the proponent as a screening exercise.

Industry has remained highly concerned about this section despite the redrafting efforts. Areas of discomfort include scoring and producing sustainability profiles; disclosure/confidentiality; the poor information base at this stage for making judgements; Protocol assessment outcomes impeding development in countries with high political risks and poor institutional and policy frameworks; and industry being seen to be criticizing governments through applications of this

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assessment tool. Industry representatives at the Forum meeting advised that it was a consensus view of the IHA Reference Group that they did not want Section I in the Protocol unless these concerns could be resolved.

A number of Forum members advised that they feel Section I is an essential component of the Protocol, and for some the most important. The Draft1 Final version removed the scoring in an effort to make it more acceptable to industry, and effectively presented it as a guidance document. In Forum Meeting 9, a set of issues and options was tabled by David Harrison (TNC) as a discussion guide, to assist in reaching decisions efficiently on the future of this section.

Subject to minor editing, the content of the nine topics in the draft of Section I presented as Mtg9 Paper 10 does not seem to be seriously questioned. The principal issues are about the use and implementation of the section, including the following issues:

SecI Q1 Expected Users and Purpose.
   (a) Proponents of potential projects only – for screening of projects and assessment of risks at the earliest practical stage
   (b) Same as above, plus other users – to assess the context for sustainability of potential projects – financiers, other governments, potential power customers, civil society

A number of Forum members advised that having Section I available to non-industry users was very important to them. The consensus agreement of the Forum members was Option (b), with industry support of this option provided there were no changes in allowing industry to conduct Section I assessments on a confidential basis.

Mtg 9 Agreement 42: *It is agreed that the expected users of Section I will be proponents of potential projects for screening of projects and assessment of risks at the earliest practical stage, plus other users - financiers, other governments, potential power customers, civil society - to assess the context for sustainability of potential projects.*

SecI Q2 Title.
   (a) Strategic Assessments (the present title)
   (b) Preliminary Screening Tool
   (c) Strategic Project Assessment Guidance Document
   (d) Preliminary Screening Guidance Document
   (e) Preliminary Project Considerations
   (f) Early Stage Assessment → in the 2nd round this was renamed "Early Stage"
   (g) Project Screening → in the 2nd round this was renamed "Screening"

The first round of consideration showed a spread of preferences around four of these options. The second round considered briefer titles in line with the emerging ideas on the overall Protocol structure and document labels, with Option (f) being Early Stage, and Option (g) Screening. Round two had a strong majority preferring Option (f), with those in the minority expressing a willingness to move to the majority view.

Mtg 9 Agreement 43: *It is agreed that the title of Section I will be changed from Strategic Assessments to Early Stage.*

SecI Q3 Scoring System.
   (a) The same numerical system as the other parts of the protocol
   (b) A simplified system – 3 scores (high, medium, low; or good, fair, poor; or green, yellow, red)
   (c) A check list – yes or no
   (d) No scoring – just treat the section as guidance

Many Forum members expressed a strong view that scoring is needed for this section. In the first round of consideration preferences were spread across all options, with the industry representatives favouring option (d), and all others favouring a scoring approach but not

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particular about which approach (most were amenable to options a or b). After several re-iterations of Section I were presented in the meeting for discussion, Forum members agreed to Option (d). This consensus agreement is recognised as a considerable compromise by many Forum members in the interest of having Section I remain in the Protocol.

Mtg 9 Agreement 44: *It is agreed that Section I will not use a scoring approach, but will be presented as a guidance document.*

SecI Q4 Timing.

  (a) Defer consideration of Section I at this time, and only deliver Sections II, III and IV for approval and endorsement – it is just too much to get resolved with remaining time and resources

  (b) Get it done yet this week, and submit it for consideration to reference groups – it is an essential part of the protocol for some parties, and a loss of momentum on this section would not be acceptable to some of those expected to endorse the protocol

The majority view on the first round of consideration was for Option (b), with one Forum member favouring Option (a). After considerable work on this section during the meeting, Option (b) was accepted as a consensus agreement.

Mtg 9 Agreement 45: *It is agreed that the Section I should be included in the package of Protocol documents put to Forum member organisations for decisions on adoption and endorsement.*

Within Forum Meeting 9, several participants took it in turns to redevelop Section I in line with discussions, and re-present versions to the meeting for testing. Forum members viewed Draft 1½ which opened it up to a wider range of users, covered the project and non-project situation, and advised that although scoring was not explicit it had the potential to be used in a three-tier scoring approach. Forum members later viewed Draft 1¾ which allowed for a wider range of users and the project and non-project situation, but undertook some reformatting so that there was no indication of gradational language and it would not be possible to derive a scoring approach. In the end the agreement was to try to maintain the original format as far as possible, but to preserve the non-gradational language (with Michael Simon abstaining). Richard Taylor and David Harrison worked together on some edits to the section, which will be the basis for the HSAP Draft2 Final Section I.

Mtg 9 Action 30: *The Forum Coordinator to base the HSAP Draft2 Final Section I on the final edits undertaken within Forum Meeting 9.*

Discomfort amongst some Forum members remains with the overall approach. Other considerations raised but not discussed or decided in Forum Meeting 9, but which have bearing on Forum member views on this section, include: What will be the future path of evolution of this section? Will it be strengthened in the future? Will it be supplemented by other early stage planning tools, such as a river basin tool being pursued by MRC et al? If it is to be evolved in the future, would that be under the auspices of the "governance body" proposed in Mtg9 Paper 14 "Next Steps"? Indications were that Forum members could accept what they felt was a compromised approach if they were comfortable with how some of these broader considerations would be dealt with.

[*** Open issue – review of Section I]

AGENDA ITEM 11 – PROTOCOL SUPPLEMENT (→ KNOWLEDGE BASE)

The Forum members discussed Mtg9 Paper 11, a draft of a supplement to the Protocol that contains much of the guidance notes from the Draft Hydropower Sustainability Assessment Protocol August 2009 that were considered to be of a more educational nature and not essential to assigning scores. Mtg9 Paper 11 summarises the status and proposed approach with this supplement, and views and issues that had been raised, so these are not repeated here.

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Issues discussed at Forum Meeting 9 included timing, how content will be reviewed and improved, status and relationship to the core Protocol documents, whether it is a candidate for adoption and endorsement, and the name. Some Forum members understood that the Supplement would be linked to the Protocol by having the same topics and issues, but would not be critical to the assessment process; i.e., it was a source of further information for those interested. Other Forum members were advocating that it is strongly linked to the Protocol assessment process, in that it provides a depth of information on topics being assessed, and what is meant by some of the important topics areas beyond the simple definitions in the Protocol documents (e.g. what exactly is a grievance mechanism). There has been a consensus view of disfavour with the name, with alternatives proposed including: Additional Information; Technical Supplement; Technical Guide; Source Book; Hand Book; Guide Book and Guidance Document.

A number of Forum members expressed strong views that they would like to see the Supplement completed and signed off within this Forum process. The converse view was raised out of concerns that it was not possible to develop it and give it proper scrutiny and sign-off with the available time and budget.

The Forum members explored scenarios in which a supplement could be produced within this Forum process, assuming further development under the governance of any follow-up stage to this Forum process. The Forum members discussed getting a consultant to produce a document within a period of several weeks, using information that had been brought forward during the Forum process and therefore requiring no additional research. Attention was called to the Hand Book from the Responsible Jewellery Council as a good simple model, with each topic addressed by no more than two pages, which Forum members familiar with this Hand Book supported. Whilst this scenario was possible, the Forum members recognised that the dependencies made it exceptionally challenging: 1) completion in one month time; 2) finding money; 3) getting the right person; 4) reviewing and approving the consultant's work. It was felt by some to be of high risk, not critical to the success of the Forum process, and had the potential to jeopardise the success of the present process by adding to its burden with a high risk task.

In the end the IHA Central Office representatives proposed an alternative approach that was positively received. The proposal is to create an on-line HSAP Knowledge Base on the IHA website, set up to reflect the Protocol topics and high profile/cross-cutting issues, on which would be provided all of the information relevant to those topics and issues that had been brought forward during the Forum process. Creation of the Knowledge Base is understood to be part of the Forum process that will be facilitated by the IHA Central Office.

Mtg 9 Agreement 46: *It is agreed that an HSAP Knowledge Base will be created to house the information on Protocol topics and high profile/cross-cutting issues that has been brought forward during the Forum process.*

Mtg 9 Action 31: *The Forum Coordinator to liaise with the IHA Central Office staff on how Mtg9 Agreement 41 can be best progressed.*

[*** Open issue – review of approach to HSAP Knowledge Base]

AGENDA ITEM 12 – SUMMARY AND REVIEW OF REMAINING ISSUES

This agenda item was a process step agreed as part of the decision-making procedures at the start of Forum Meeting 9. For this agenda item, the Forum Coordinator presented a table of all decisions points that had been tabled for decision at the meeting, and the preferences of the Forum members. This did not include observers, and so there were seven Forum members in the meeting whose preferences were captured in this table.

This table was presented at the start of Day 4, at which time 38 decisions had consensus agreements and 20 decisions were still not closed off. As apparent from the meeting minutes,

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the Forum members had a number of actions in train through Forum Meeting 9 that were trying to assist decision points that were not closed off in the first round of consideration. These related to Section I, the Transboundary Rivers topic text, and the Governance topic text, disclosure, independent review, and issues pertinent to the social topics II-14, II-15 and II-16. Various Forum members and other meeting participants took on tasks to develop the thinking on these issues and bring proposals back into the meeting that would facilitate efficient decision-making.

On the second rounds of consideration of these open issues, in some cases Forum members were presented with a revised list of options and Forum members were able to come to a consensus agreement on a particular option. In other cases, there was further refinement and the issue went to a third round of consideration. In all rounds of consideration after the first round, Forum members were asked about their willingness to move their initial position to one that aligned with the majority view, in the interests of achieving consensus. It was understood that consensus does not mean that all Forum members hold the same view, but that the compromise position was agreed to.

In some cases there was not a willingness to move from initial preferences. In all cases in which the Forum members did not arrive at a consensus position, but closed discussions with divergent views, these are noted in these minutes. Because some approach must be taken to the text that will be used in the Draft2 Final, in these minutes the Forum Coordinator has proposed the approach to be taken and the reasons for this approach (for example because it was the majority view), and that divergent views will be recorded in the Draft2 Final text.

There are **nine occurrences of divergent views** recorded:

1. Public disclosure of analysis of demonstrated need and strategic fit for topic II-2 Demonstrated Need & Strategic Fit at Level 5 – MS and DOL believe it should be required at Level 3.

2. References to plans developed in conjunction with regulatory authorities and include emergency response practice exercises for topic II-5 Infrastructure Safety at Level 3 – JH and RAM believe it should be required at Level 5.

3. Public disclosure of the economic viability analysis for topic II-8 Economic Viability at Level 5 – DOL believes it should be required at Level 3, and AS does not believe it should be disclosed at all.

4. Wording of Stakeholder Support criterion for topic II-14 Project Affected Communities – MS believes support should be for "the assessment and planning on issues of concern to project affected communities", and GH and JH believe support should be for "the assessment and planning on issues that may affect them".

5. Wording of Management criterion for topic II-15 Indigenous Peoples – AS believes plans and processes should address "indigenous peoples issues", and DOL and MS believe they should address "issues of concern identified by indigenous peoples".

6. Wording of Stakeholder Support criterion for topic II-15 Indigenous Peoples Level 3 statement – DH, DOL and MS prefer that support of indigenous groups is for the assessment and planning on "issues of concern identified by them", and AS prefers it is for "indigenous peoples issues".

7. Wording of Stakeholder Support criterion for topic II-15 Indigenous Peoples Level 5 statement – DOL and MS prefer "Consent has been sought and gained by directly affected indigenous groups for the project, management plans and processes on issues of concern to them", and AS and RAM prefer "There is consent with legally binding agreements by the directly affected indigenous peoples for indigenous peoples management plans".

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8. Wording of Stakeholder Support criterion for topic II-16 Resettlement Level 3 statement – MS believes that support of resettlees and host communities should be for "the assessment and planning on issues of concern identified by them".

9. Wording of Stakeholder Support criterion for topic II-16 Resettlement Level 5 statement – MS believes the wording should be "Consent has been sought and gained by resettlees and host communities for the project, management plans and processes on issues of concern to them".

In addition to divergent views, there are still a number of areas in the Protocol which are not completely closed because of actions arising from this meeting.

There are **sixteen occurrences of open issues** recorded:

1. Final Protocol structure and labels
2. Final form and fate of Table 3
3. Instructions on how Assessment Guidance should be used
4. Agreement on order of topics in Sections III and IV
5. Agreement on how independent review is addressed in topic II-9 Governance
6. Agreement on how international standards are referenced in the Protocol Introduction and HSAP Knowledge Base
7. Agreement on how "need" is presented in topic II-2 Demonstrated Need & Strategic Fit
8. Final approach to transboundary rivers issues in the Protocol
9. Approach to human rights in the Protocol Introduction, and reference to a human rights approach for the Social Impact Assessment in topic II-13 Environmental & Social Issues Assessment & Management
10. Guidance on how to demonstrate consistency with internationally recognised labour rights
11. Review of how references to land rehabilitation and catchment management have been incorporated into other topics in the Protocol
12. Review of how grievance mechanisms are presented in the Protocol
13. Review of Section IV
14. Review of Section III
15. Review of Section I
16. Review of approach to HSAP Knowledge Base (including how international standards and high profile and cross-cutting issues are addressed within it)

It will remain for the Forum members to reconsider their views where divergent views are recorded and where issues are identified as open, based on their review of the Draft2 Final HSAP documents. Open item 16, the HSAP Knowledge Base, will not be contained within the Draft2 Final HSAP documents, so will need to be considered in a parallel process.

AGENDA ITEM 13 – ACHIEVING FORUM CLOSURE

Mtg9 Paper 13 provides a budget status report, outlines three scenarios for Forum closure, and identifies estimated budget requirements with those different scenarios. Scenario 1 was close at Forum Meeting 9; Scenario 2 allowed for a longer time frame for closure but without a tenth Forum Meeting; and Scenario 3 was a longer time frame with closure after a tenth Forum meeting.

An important point of consideration is where does this stage stop and the Forum consider that its work is finished? There are several potential indicators of finishing points – Forum budget running out, end date for the Forum Coordinator contract, tabling of a final draft Protocol to Forum member organisations for decisions on Protocol adoption and endorsement, public

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launch of an adopted/endorsed Protocol, or launch of a next phase. Closely tied to these considerations are how much do the decisions on a next phase have bearing on the ability to close this phase?

The general understanding that emerged from discussions is that this Forum closes upon tabling of a final draft Protocol to the Forum member organisations for organisational decisions on adoption and endorsement. The depletion of the Forum budget, and closure of the contract for the Forum Coordinator, would coincide with this point in time. Planning for the next stage, and preparations for a public launch of an adopted/endorsed Protocol, would involve the Forum members but would be after closure of the Forum process. The IHA's new Sustainability Officer, Desmond Manful, would be the focal point for follow-on initiatives.

Mtg 9 Agreement 47: It is agreed that the Forum closes its process at the point of delivering a final draft Protocol to Forum member organisations for decisions about adoption and endorsement.

Despite nine occurrences of divergent views, and sixteen occurrences of open issues, the Forum members at Forum Meeting 9 felt that the amount of convergence that had been gained on the Protocol encouraged the conclusion that the Forum could close its considerations without requiring a tenth meeting. Given the position of the Forum budget, and the general fatigue that is being experienced at this late stage in the Forum process, it is considered preferable to try to close the Forum process through several final webinars rather than an additional meeting. There were also identified risks in prolonging or reopening issues, or just simply stalling momentum, if the period for closure is too long.

Mtg 9 Agreement 48: It is agreed that the Forum should aim for closure before the end of July 2010, reliant on two additional Forum webinars and no additional Forum meetings.

Mtg 9 Action 32: The Forum Coordinator to schedule Webinar 5 for the second week of June 2010 and Webinar 6 for the second week of July 2010.

This closure scenario depends on the success of the HSAP Draft2 Final documents capturing all of the meeting agreements arising from this meeting, for actions to be delivered in time to incorporate into these documents, and for positive feedback from Forum member and reference group reviews of these documents (including those not present at Forum Meeting 9).

This closure scenario is closest to but slightly different to that shown by Scenario 2 in Mtg9 Paper 13. Scenario 2 allows for a longer time frame for closure than is provided for in Mtg9 Agreement 48. With a shorter time frame, this alleviates the pressure to seek additional funding, particularly with respect to funding the role of the Forum Coordinator. Scenario 2 considers funding the Forum Coordinator role to end September; Mtg9 Agreement 48 would have this role is funded to end July which should be able to be managed with the present funding arrangements.

A listing of key dates leading to Forum closure is provided here:

- Fri 14 May – Mtg 9 Draft1 Minutes circulated to those who attended Forum Meeting 9
- Fri 21 May – Comments due on Draft1 Minutes
- Mon 24 May – If necessary, Draft2 Minutes circulated for review; if not, final minutes circulated and posted on website with meeting papers
- Mon 24 May – **HSAP Draft2 Final** documents distributed (Introduction, Sections I-IV) for 1 month review period by Forum members and reference groups
- Fri 28 May – comments due on Draft2 Minutes if they were required
- Mon 31 May – final minutes distributed if they went through a second draft
- Fri 4 June – Last date for feedback on HSAF Mtg 9 Paper 14 (Next Steps with the HSAP) – this feedback is from all Forum members not just those attending Forum Mtg 9, and goes to Richard Taylor.

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- Tue 8 June (UK) – Proposed date for **Forum Webinar 5** – purpose is to share initial feedback on HSAP Draft2 Final documents
- Sat 12 June – Tue 15 June – IHA Reference Group meeting, Turkey
- Mon 21 June – last date for circulation of any changes proposed to HSAP Draft2 Final
- Mon 28 June – circulation of **HSAP Draft3 Final** documents
- Wed 7 July – proposed date for **Forum Webinar 6** – purpose is to aim for resolution on the HSAP Draft3 Final as the Final Draft Protocol, for presentation by the Forum to the Forum member organisations for them to consider for adoption or endorsement

AGENDA ITEM 14 – NEXT STEPS POST-FORUM CLOSURE

In the review of the Meeting 9 agenda on Day 1, Forum members felt that the approaches to and views on the next stage have bearing for them on how this stage is closed. Forum members expressed concern that closure on Section I and the Knowledge Base would be left to a follow-up stage, and this was a source of discomfort for them without understanding how the governance of this follow up stage would be set up. Some of the Forum members felt that not achieving closure on Section I and not having it as part of the Protocol package for adoption and endorsement would represent a large credibility gap for them with their constituencies, and they did not see how there could then be stakeholder support for the Forum process and end products.

Because of these concerns, the Forum members commenced discussions on this agenda item at the end of Day 1, and resumed them again on Day 4. At the point in time of the resumed discussions, the Forum members had agreed on approaches to Section I and the Knowledge Base that would aim to have these closed within the present Forum process.

Richard Taylor was the main spokesperson for Mtg9 Paper 14, Next Steps, which he had written and provided to the Forum as a representation of IHA's views and to prompt discussion and indications of interest in follow-up by Forum members. He felt that it is not enough to table a very good quality product at the end of the Forum process, but that equally if not more important will be to allow a period for digestion, and to build a critical mass of support.

Richard described the IHA's adoption process. The IHA Board would issue a resolution to adopt informed by the advice of the IHA Reference Group's review of the Draft2 Final. This resolution requires majority support – either a majority in favour of adoption, or a majority issuing an objection. Regardless of the outcome of the resolution, the Board could still vote to adopt or reject the Protocol (e.g. if a large portion of the membership object but this is not a majority, the Board may still think the risk is too high to adopt).

Regarding references to intellectual property in Mtg9 Paper 14, Richard advised that if there is no licencing then control of use and misuse of the Protocol is given away. For example, a company could claim compliance with the Protocol and there would be no controls around this; the only way to have any control is through a licencing process.

Richard felt that the scenario proposed by IHA and described in Mtg9 Paper 14, with management and governance bodies, could be seen as a "resting scenario" that does not close off any doors to a range of future scenarios (including a future scenario of an independent body doing Forest Stewardship Council style certifications). He felt that the model proposed allows some space for capacity to be built, and effectively serves as a trialling period since no one will have applied the final Protocol.

Forum members were interested in forms of endorsement. A number of members advised that endorsement would not be an option for their organisation in the sense of providing a logo for the Protocol cover, but they are still interested in being partners in a follow up phase, and that they would like to see alternative forms of endorsement offered that would be appropriate for their organisations. Richard advised that organisations who cannot endorse can be supporting

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organisations. He further advised that the governance body for the next phase would benefit from inclusion of non-endorsing partners, and this was not a constraint on who could be eligible. There are lots of open questions about the terms of reference for the governance body for the next phase, and Forum members are encouraged to follow up these discussions with Richard.

Mtg 9 Action 33: *Forum members to indicate to Richard Taylor their interest in being involved in a follow up phase, and to provide any comments on Mtg9 Paper 14 by no later than the 4th of June 2010.*

AGENDA ITEM 15 – WRAP-UP AND MEETING CLOSE

The Forum members discussed the Forum as a consensus process, versus the Protocol as a consensus document. The Protocol will be the best packaging of convergence on issues that the Forum has been able to achieve amongst highly diverse organisational and individual viewpoints in the Forum's efforts to try to reach consensus. The Protocol will be a compromise document for all organisations involved, and cannot reflect all the preferences of every organisation involved. However all participants in the Forum process can see how their views and inputs have influenced and lifted the quality of the Protocol, and it should be viewed as a considerable achievement from this process.

Forum Meeting 9 closed at 6 pm. The next meeting of the Forum members will be through Forum Webinar 5 in the second week of June 2010.

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HSAF MEETING 9 SUMMARY OF AGREEMENTS

Mtg 9 Agreement 1: *The proposed decision-making procedure for Forum Meeting 9 outlined in Mtg9 Paper 3 was accepted.*

Mtg 9 Agreement 2: *The package of documents will continue to be referred to as the Hydropower Sustainability Assessment Protocol. There will be five documents in the HSAP package, with the following names proposed but subject to further consideration: Introduction, Early Stage, Preparation, Implementation, Operation. All documents will be preceded by Hydropower Sustainability Assessment Protocol (HSAP), and will not be numbered but could have letter codes. The five documents will be underpinned by an online Knowledge Base capturing knowledge on Protocol sustainability topics derived through the Forum process.*

Mtg 9 Agreement 3: *It was agreed that the Level 3 statements would be expressed in full on each topic page, with the Level 5 statements showing only what is different than Level 3 (typically expressed as "in addition…").*

Mtg 9 Agreement 4: *It was agreed that Table 3 requires further edits, and should be reviewed in light of how well these edits alleviate concerns and address recommendations.*

Mtg 9 Agreement 5: *It was agreed that the Protocol will have five scoring levels 1, 2, 3, 4, 5. The Level 1 statement will refer to poor or absence of performance, and the Level 2 statement will reflect close to basic good practice.*

Mtg 9 Agreement 6: *It was agreed that the text in the HSAP Draft1 Final Introduction relating to definitions of basic good practice for assessment, management and stakeholder engagement could be merged into Table 3, recognising that Table 3 will be subject to further review.*

Mtg 9 Agreement 7: *It is agreed that Not Relevant will be assigned to a topic if credible evidence shows that there is no issue to be assessed (e.g. no resettlement, no indigenous peoples, no cultural heritage), even in the case where there is no issue due to active avoidance of this issue.*

Mtg 9 Agreement 8: *It is agreed that in the case of a sustainability topic being assessed but an inability to verify the evidence to support assigning a score, that it should be indicated as Not Scored and the reasons stated as to why not.*

Mtg 9 Agreement 9: *It is agreed that in the case of a sustainability topic not being assessed for any reason (e.g. the interviewee did not show up, or it was not part of the schedule for the Protocol assessment), that it should be indicated as Not Scored and the reasons stated as to why not.*

Mtg 9 Agreement 10: *It is agreed that the Protocol Introduction should provide text stating that the objective is to get a full sustainability profile for a project. Partial assessments with Not Scored topics should be seen as stepping stones towards a full assessment, and therefore incomplete.*

Mtg 9 Agreement 11: *It is agreed to progress with the order of topics for Section II that is shown as Proposed Variation 2 in Figure 2 in the HSAF Mtg9 minutes.*

Mtg 9 Agreement 12: *It is agreed that the statements of topic description and intent will only appear in the Protocol sections at the topic of each topic page, and not in a summary at the start of each section.*

Mtg 9 Agreement 13: *It is agreed to retain the stakeholder criteria as presently provided for in the HSAP Draft1 Final documents.*

Mtg 9 Agreement 14: *It is agreed that the phrase "based on dialogue with directly affected stakeholders" will appear for the topics II-2 Demonstrated Need & Strategic Fit*

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(Assessment criterion), II-5 Infrastructure Safety (Management criterion) and II-21 Reservoir Management (Assessment and Management criteria). Use of this phrase will be in the Level 5 scoring statements, and guidance will be provided as to with which stakeholders dialogue would be important.

Mtg 9 Agreement 15: *It is agreed that Disclosure is not retained as its own criterion. Reference to public release of reports will be made under the Stakeholder Engagement criterion, and reference to commitments being public, formal and legally enforceable will be made under the Management criterion.*

Mtg 9 Agreement 16: *It is agreed that the approach to disclosure of information to stakeholders in the HSAP Draft1 Final under the Governance topic is retained.*

Mtg 9 Agreement 17: *Topic II-7 Project Benefits will have reference to disclosure of project benefit commitments in the Level 3 statements.*

Mtg 9 Agreement 18: *Topics II–14 Project Affected Communities, II–15 Indigenous Peoples, and II–16 Resettlement will have reference to public disclosure of formal agreements in the Level 3 statements.*

Mtg 9 Agreement 19: *Topic II–22 Downstream Flow Regimes will have reference in the Level 3 statement to "where formal commitments have been made, these are publicly disclosed".*

Mtg 9 Agreement 20: *It is agreed that reference to independent review will be found in topic II-13 Environmental & Social Impact Assessment & Management in the Level 5 statement; and in topics II-5 Infrastructure Safety and II-9 Governance in the Level 3 statements.*

Mtg 9 Agreement 21: *It is agreed that the Protocol will not make prescriptive statements in the topic scoring statements on the type of independent review that should be provided, but rather will provide examples in the Assessment Guidance notes.*

Mtg 9 Agreement 22: *It is agreed that specific international standards will not be referred to in the Protocol documents with the exception of ISO14001. The Protocol Introduction will provide text on how international standards have guided Protocol content, and how these are elaborated on in the HSAP Knowledge Base.*

Mtg 9 Agreement 23: *It is agreed that reference to certification will only be in topic II-13 Environmental & Social Impact Assessment & Management, with respect to certification of the Environmental Management System to ISO14001 as a Level 5 statement.*

Mtg 9 Agreement 24: *It is agreed that reference to high profile and cross-cutting issues will be provided in (1) the Protocol Introduction, where a mapping of how these issues are addressed in the Protocol is provided; and (2) in the Knowledge Base, where more information on each of these issues is provided.*

Mtg 9 Agreement 25: *It is agreed that references to budget will appear only in Table 3 under basic good practice management, and in the Financial Viability topic.*

Mtg 9 Agreement 26: *It is agreed that topic cross-references will not be provided in the Protocol.*

Mtg 9 Agreement 27: *It is agreed to re-edit the introductory statements in topic II-2 Demonstrated Need & Strategic Fit in a manner that provides a clearer and auditable definition of "need".*

Mtg 9 Agreement 28: *It is agreed to re-edit topic II-9 Governance in line with the text proposed at Forum Meeting 9.*

Mtg 9 Agreement 29: *It is agreed to re-edit Topic II-10 Transboundary Rivers in line with the text proposed at Forum Meeting 9.*

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Mtg 9 Agreement 30: *It is agreed to re-edit the Stakeholder Engagement Level 3 statement in topic II-15 Indigenous Peoples to read "Engagement with indigenous peoples has been appropriately timed, culturally appropriate and two-way with self-selected community representatives; ongoing processes are in place for indigenous peoples to raise issues and get feedback". A similar approach will be taken for the Stakeholder Engagement criterion for topics II-14 and II-16.*

Mtg 9 Agreement 31: *It is agreed that topic II-18 Cultural Heritage will address physical cultural resources (e.g. historical, archaeological, sacred sites), and topic II-13 Environmental & Social Impact Assessment & Management will address non-physical (e.g. non object or site specific rituals).*

Mtg 9 Agreement 32: *It is agreed that the Project Catchment & Land Management topic will be removed.*

Mtg 9 Agreement 33: *It is agreed that for operating hydropower facilities the present circumstance should be taken as the baseline. Risks should be assessed with respect to the present condition, and management actions formulated to address identified issues. Identified issues may include legacy issues.*

Mtg 9 Agreement 34: *It is agreed that for operating hydropower facilities if there is a well-established pre-project baseline and commitments made against this baseline, these commitments take precedence over using the present condition as the baseline until a point at which those commitments are considered fully delivered.*

Mtg 9 Agreement 35: *It is agreed that for operating hydropower facilities if there is a change in ownership then commitments made with respect to performance of the facility against a pre-project baseline should transfer to the new owner.*

Mtg 9 Agreement 36: *It is agreed to remove topic IV-4 Markets, Innovation & Research in Section IV, and to merge the content into topic IV-6 Financial Viability.*

Mtg 9 Agreement 37: *It is agreed to remove topic IV-11 Procurement in Section IV, and to merge the content into topic IV-9 Governance.*

Mtg 9 Agreement 38: *It is agreed to remove topic IV-8 Economic Viability in Section IV, given that its purpose is for the cost-benefit analysis to provide an analytical framework to evaluate the net performance of a hydropower project before it is approved, and that the sustainability profile produced by a Protocol assessment effectively provides this analytical framework for operating hydropower facilities.*

Mtg 9 Agreement 39: *It is agreed to make topic IV-9 Governance similar to that in Section II, but that reference to independent review in the Governance topic (and in other topics) will not be directly specified in Section IV (it may still be relevant as a project commitment).*

Mtg 9 Agreement 40: *It is agreed that the following considerations will guide production of the Draft2 Final for Section III:*

- *Construction and implementation focused (e.g. implementation of the Resettlement Action Plan and other management plans);*
- *Assessment – wording should be focussed on asking if there is a good baseline, and if project impacts and management measures are being monitored*
- *Management – wording should emphasise implementation of management plans and processes; references to commitments and to dispute resolution processes are highly relevant.*
- *Stakeholder Engagement and Stakeholder Support – use the same approach as found in Section IV;*
- *Conformance and Compliance – these considerations are highly relevant to Section III*

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- *Outcomes – wording should assess whether intended outcomes are "on track" to be met, or if major milestones are being met*
- *Assessment Guidance – emphasis is on issues and considerations relevant to construction and implementation*

Mtg 9 Agreement 41: *It is agreed to remove topic III-5 Economic Viability in Section III.*

Mtg 9 Agreement 42: *It is agreed that the expected users of Section I will be proponents of potential projects for screening of projects and assessment of risks at the earliest practical stage, plus other users - financiers, other governments, potential power customers, civil society - to assess the context for sustainability of potential projects.*

Mtg 9 Agreement 43: *It is agreed that the title of Section I will be changed from Strategic Assessments to Early Stage.*

Mtg 9 Agreement 44: *It is agreed that Section I will not use a scoring approach, but will be presented as a guidance document.*

Mtg 9 Agreement 45: *It is agreed that the Section I should be included in the package of Protocol documents put to Forum member organisations for decisions on adoption and endorsement.*

Mtg 9 Agreement 46: *It is agreed that an HSAP Knowledge Base will be created to house the information on Protocol topics and high profile/cross-cutting issues that has been brought forward during the Forum process.*

Mtg 9 Agreement 47: *It is agreed that the Forum closes its process at the point of delivering a final draft Protocol to Forum member organisations for decisions about adoption and endorsement.*

Mtg 9 Agreement 48: *It is agreed that the Forum should aim for closure before the end of July 2010, reliant on two additional Forum webinars and no additional Forum meetings.*

* Note that agreements reached at a meeting may be revisited and updated at a later meeting based on further information, discussion and analysis.

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HSAF MEETING 9 SUMMARY OF ACTIONS

Mtg 9 Action 1: *The Forum Coordinator to review Table 3 in light of other Meeting 9 agreements, concerns about consistency with the topic statements, minor edits identified by Forum members, and the need for clarification about its role in assigning scores, and to represent this table in the HSAP Draft2 Final for further consideration.*

Mtg 9 Action 2: *The Forum Coordinator to review the wording for the Level 1 and 2 statements in the Introduction, topic scoring statements, and Table 3 in light of Mtg9 Agreement 5.*

Mtg 9 Action 3: *The Forum Coordinator to ensure a definition of the word "appropriate" is in the Glossary of Terms.*

Mtg 9 Action 4: *The Forum Coordinator to consider how Assessment Guidance notes are presented on the topic page, and whether additional wording is necessary to make it clear that this is guidance, and that where examples are provided these are examples only to improve understanding and are not prescriptive lists in which all components must be met.*

Mtg 9 Action 5: *The Forum Coordinator to apply the same approach agreed for Section II to the order of topics to Sections III and IV, recognizing that these sections may require some slight adjustments for which the rationale should be made apparent.*

Mtg 9 Action 6: *The Forum Coordinator will add reference to public disclosure for topic II-2 Demonstrated Need & Strategic Fit at the Level 5 scoring statement; divergent views will be noted.*

Mtg 9 Action 7: *The Forum Coordinator will move Level 5 Management criterion elements in topic II-5 Infrastructure Safety to Level 3: "safety management plans and processes have been developed in conjunction with relevant regulatory authorities…" and "plans include emergency response plans and processes supported by awareness and training programs and emergency response practice exercises"; divergent views will be noted.*

Mtg 9 Action 8: *The Forum Coordinator will add reference to public disclosure of the economic viability analysis for topic II-8 Economic Viability at the Level 5 scoring statement; divergent views will be noted.*

Mtg 9 Action 9: *Joerg Hartmann and Donal O'Leary to propose wording for topic II-9 Governance that would specify under what conditions and for which topics independent review should be expected for the project.*

Mtg 9 Action 10: *The Forum Coordinator will ensure there are definitions for "independent review" and "expertise" in the Glossary of Terms.*

Mtg 9 Action 11: *The Forum Coordinator to ensure a clear definition of "need" is provided in the assessment guidance to topic II-2 Demonstrated Need & Strategic Fit.*

Mtg 9 Action 12: *Refaat Abdel-Malek and Richard Taylor to provide examples of indicators of safety performance in the assessment guidance to topic II-5 Infrastructure Safety.*

Mtg 9 Action 13: *Joerg Hartmann to provide explanation of "rate of return" in the context of an economic viability assessment in the assessment guidance to topic II-8 Economic Viability.*

Mtg 9 Action 14: *Richard Taylor to test views on the proposed revisions to topic II-10 Transboundary Rivers.*

Mtg 9 Action 15: *The Forum Coordinator to provide web links to some Social Impact Assessments (SIAs) that have taken or incorporated a human rights analytical approach, to assist in forming a view on whether the Level 5 scoring statement in topic II-13*

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Environmental & Social Issues Assessment & Management should require a human rights approach to the SIA.

Mtg 9 Action 16: *The Forum Coordinator to provide the text in the HSAP Draft2 Final Introduction that explains how human rights are addressed in the Protocol.*

Mtg 9 Action 17: *The Forum Coordinator to ensure that topic II-13 Environmental & Social Impacts Assessment & Management refers to planning for ISO 14001 certification, whereas the following two sections assess whether this certification has been achieved.*

Mtg 9 Action 18: *The Forum Coordinator to retain the present text under the Stakeholder Support criterion in topic II-14 Project Affected Communities"; divergent views will be noted.*

Mtg 9 Action 19: *The Forum Coordinator to revise the text under the Management criterion and Assessment Guidance in topic II-15 Indigenous Peoples from reference to "indigenous peoples issues" to "issues that may affect indigenous peoples"; divergent views will be noted.*

Mtg 9 Action 20: *The Forum Coordinator to revise the Level 3 statement for the Stakeholder Support criterion in topic II-15 Indigenous Peoples to read "There is general support amongst directly affected indigenous groups for the assessment and planning on issues that may affect them, and/or no major or ongoing opposition by these stakeholders"; divergent views will be noted.*

Mtg 9 Action 21: *The Forum Coordinator to revise the Level 5 statement for the Stakeholder Support criterion in topic II-15 Indigenous Peoples to read "Consent has been sought and gained by directly affected indigenous groups for the management plans on issues that may affect them"; divergent views will be noted.*

Mtg 9 Action 22: *The Forum Coordinator to provide a definition of Resettlement Action Plan in the assessment guidance notes for topic II-16 Resettlement, advising that this is a document or set of documents specifically developed to identify the actions that will be taken to address resettlement.*

Mtg 9 Action 23: *The Forum Coordinator to ensure that the divergent view on the Level 3 statement for the Stakeholder Support criterion in topic II-16 Resettlement is recorded.*

Mtg 9 Action 24: *The Forum Coordinator to ensure that the divergent view on the Level 5 statement for the Stakeholder Support criterion in topic II-16 Resettlement is recorded.*

Mtg 9 Action 25: *The Forum Coordinator to provide more clarity in the Assessment Guidance for topic II-17 Labour & Working Conditions and the equivalent topics in Sections III and IV on evidence that should be presented to demonstrate consistency with internationally recognised labour rights.*

Mtg 9 Action 26: *The Forum Coordinator to ensure that land rehabilitation is specifically required to be addressed under topic II-13 Environmental & Social Impact Assessment & Management, and that considerations at the catchment level are captured at the 5 Level in many topics.*

Mtg 9 Action 27: *The Forum Coordinator to search for references to "baseline" and "pre-project condition" in Section IV, to ensure that the understanding established in Mtg9 Agreements 33 and 34 is very clear.*

Mtg 9 Action 28: *The Forum Coordinator to review the order of topics in Section IV, to see if it would assist understanding to group those topics which only have relevance if there is a well-documented pre-project baseline – Project Benefits, Project Affected Communities, Resettlement.*

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Mtg 9 Action 29: *The Forum Coordinator to rename the topics presently titled Reservoir Management so that in Section II this is Reservoir Planning; in Section III this is Reservoir Preparation and Filling; and in Section IV this is Reservoir Management.*

Mtg 9 Action 30: *The Forum Coordinator to base the HSAP Draft2 Final Section I on the final edits undertaken within Forum Meeting 9.*

Mtg 9 Action 31: *The Forum Coordinator to liaise with the IHA Central Office staff on how Mtg9 Agreement 41 can be best progressed.*

Mtg 9 Action 32: *The Forum Coordinator to schedule Webinar 5 for the second week of June 2010 and Webinar 6 for the second week of July 2010.*

Mtg 9 Action 33: *Forum members to indicate to Richard Taylor their interest in being involved in a follow up phase, and to provide any comments on Mtg9 Paper 14 by no later than the 4th of June 2010.*

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ATTACHMENT 1 – Comparison Stakeholder Involvement in HSAP Draft1 Final (Section II) Compared to Forum Meeting 8 Agreement

		Section II - HSAP Draft1 Final - 26 April			Forum Meeting 8 Agreement			
		Stakeholder Engagement	Stakeholder Support	Based on dialogue with directly affected stakeholders	Stakeholder Involvement is a criteria, with higher scores measuring the degree to which stakeholder input is meaningfully reflected in planning	Stakeholder Involvement & Support is a criteria, with generally expressed scaling; must state who are stakeholders and what is object of support	Stakeholder Support & Involvement is a criteria, with wording tailored specifically to include consent in a score of 5; must state who are the stakeholders and what is the object of support	Consultation is embedded into the language of higher scoring
II-1	Communications & Consultation	x		x				x
II-2	Demonstrated Need & Strategic Fit			x	x			
II-3	Siting & Design	x		x	x			
II-4	Hydrological Resource							x
II-5	Infrastructure Safety			x				x
II-6	Financial Viability							
II-7	Project Benefits	x			x			
II-8	Economic Viability							x
II-9	Governance	x (for 5)						x
II-10	Transboundary Issues	x	x (formal agreements)			x		
II-11	Integrated Project Management							
II-12	Procurement							x
II-13	Envt & Social Impact Asst & Mgmt	x			x			
II-14	Project Affected Communities & Livelihoods	x	x (formal agreements)			x		
II-15	Indigenous Peoples	x	x (formal agreements, consent)				x	
II-16	Resettlement	x	x (formal agreements, consent)				x	
II-17	Labour & Working Conditions	x (grievance						x
II-18	Cultural Heritage	x	x (formal agreements)			x		
II-19	Public Health	x						x
II-20	Project Catchment & Land Mgmt			x				x
II-21	Reservoir Management			x				x
II-22	Downstream Flow Regime	x			x			
II-23	Biodiversity & Invasive Species							x
II-24	Erosion & Sedimentation							x
II-25	Water Quality							x

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ATTACHMENT 2 – Proposed Text for Governance Topic (Section II)

This topic addresses key corporate and external (e.g. capacity shortfalls, and public sector, political and corruption risks) governance considerations for the project. The intent is that the developer has sound corporate business structures, policies and practices; addresses transparency, integrity and accountability issues; can manage external governance issues; and can ensure compliance.

Scoring:

3 – **Assessment**: Assessments have been undertaken of political and public sector governance issues, and corporate governance requirements and issues, through the project development cycle with no significant gaps.

- **Management**: Processes are in place to ensure management of corporate, political and public sector risk, compliance, social and environmental responsibility (including grievance mechanisms), ethical business practices, and transparency; and policies and processes are communicated internally and externally as appropriate.

- **Stakeholder Engagement**: The business interacts with a range of directly affected stakeholders to understand issues of interest to them. The business makes significant project reports publicly available, and publicly reports on project performance, in some sustainability areas.

- **Outcomes**: There are no significant corporate and external governance issues.

- **Conformance/Compliance:** The project has no significant non-compliances.

5 – **Assessment**: In addition, there are no significant opportunities for improvement in the assessment of political and public sector governance issues and corporate governance requirements and issues.

- **Management**: In addition, contractors are required to meet or have consistent policies as the developer; policies and processes are communicated internally and externally as appropriate; and processes are in place to anticipate and respond to emerging risks and opportunities.

- **Stakeholder Engagement**: In addition, the business interacts with a range of directly affected stakeholders to understand matters of high interest to its stakeholders; and the business makes significant project reports publicly available, and publicly reports on project performance, in sustainability areas of high interest to its stakeholders.

- **Outcomes**: In addition, there are no unresolved corporate and external governance issues identified.

- **Conformance/Compliance:** In addition, the project has no non-compliances.

Assessment Guidance:

Corporate governance is a term that refers broadly to the rules, processes, or laws by which businesses are operated, regulated, and controlled

Corporate governance requirements may include, for example: business administration, policies and processes, risk management, corporate social responsibility, ethical business practices, accountability and stakeholder relations, compliance, etc.

Corporate governance issues may relate to, for example: lack of capacity in key external institutional structures, policies and processes important to the project; public sector corruption risks; political risks; internal corruption risks; compliance; management of project risks; etc.

External legal, judicial, and institutional structures, processes and policies examples include: the executive, the legislature, political parties, anticorruption organizations, judiciary, grievance addressing mechanisms (e.g. the Ombudsman), specific civil service/public sector agencies, law enforcement agencies, Freedom of Information, media, local and regional government, civil society, private sector,

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international institutions (e.g. some provide peer review of anti-corruption efforts), audit/oversight institutions, public contracting system, etc.

Political risk is a risk of financial loss or inability to conduct business faced by investors, corporations, and governments due to government policy changes, government action preventing entry of goods, expropriation or confiscation, currency inconvertibility, politically-motivated interference, government instability, or war.

Corruption risks may be within the business such as with how finances are managed, or within the public sector such as not addressing licence or permit violations. Public sector corruption risks during project preparation may include, for example, limited options considered, short-cutting of assessment / preparation requirements, or non-transparent approvals; and at the project implementation and operation may include, for example, a blind eye to licence and permit violations.

Processes to ensure ethical business practices could include, for example: a business Code of Ethics, an employee Code of Conduct, implementation of Business Principles to Counter Bribery, a business Integrity Pact, anti-bribery or anti-corruption policies and procedures for reporting and investigation, a whistle-blowing arrangement, etc.

Compliance is with respect to all relevant laws, policies, permits, agreements, codes of practice and publicly stated commitments.

Sustainable performance indicators for corporate annual reporting are found, for example, in the Global Reporting Initiative as relevant to the hydropower industry., ...

Potential interviewees: business managers for corporate governance, compliance, internal audit, business risk; experts on public sector governance; other relevant third parties such as anti-corruption civil society organisations

Examples of evidence: business internal website and external website for vision, values, policies, structure, procedures, annual reports; assessment of public sector governance issues; internal audit reports; project compliance plan; reports to Board on ethical business practices and compliance; log of ethical business practices grievance; third party review reports; relevant documentation on public sector governance issues such as reports of Transparency International on National Integrity Systems (NIS) and the Corruption Perceptions Index (CPI)

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ATTACHMENT 3 – Proposed Text for Transboundary Topic (Section II)

This topic addresses management of transboundary issues when the project either relies on or influences the upstream or downstream water resources that cross government jurisdictional boundaries. The intent is that water resource utilisation agreements are in place so that transboundary conflicts relating to project implementation and operation are avoided.

3 – **Assessment**: An assessment has been undertaken to identify if there are any transboundary issues related to the project; the assessment takes into account the degree of project influence, impact and vulnerability on the water resources in multiple government jurisdictions both upstream and downstream of the project.

- **Management**: Where transboundary issues have been identified, measures are in place to work with the relevant jurisdictions on mechanisms by which these can be addressed.

   Conformance/Compliance: Where transboundary agreements are under negotiation or are agreed between the affected jurisdictions, there are no significant non-conformances or non-compliances in the project plans with the existing or likely provisions of these agreements.

- **Outcomes**: Plans for transboundary issues avoid significant harm to any affected riparian country.

5 – **Assessment**: In addition, the assessment takes into account both transboundary risks and opportunities with respect to the project development.

- **Management**: In addition, measures to address transboundary issues are an outcome of dialogue with key stakeholders; provide for anticipation and response to emerging risks and opportunities; and are underpinned by institutional structures and processes.

- **Conformance/Compliance:** In addition, there are no non-conformances or non-compliances.

- **Outcomes**: In addition, plans avoid harm to any riparian country and provide for sharing of project benefits.

Assessment Guidance:

Topic relevance: This topic will not be relevant if evidence provided shows that the catchment area into the project and the rivers downstream of the project over the distance subject to project influence are all found within a single governmental jurisdiction.

Transboundary agreements refers to agreements made amongst riparian states about how shared water resources will be utilized and optimized by the parties involved, and the processes that will be followed to sustain these understandings.

Potential interviewees: project manager, government representatives from the affected jurisdictions, key stakeholders, NGOs or independent third parties with expressed interest or concerns; representatives of river basin organisations or catchment management authorities
Examples of evidence: assessment of transboundary project issues; jurisdictional maps; hydrological data showing extent of project downstream influence; records of meetings with relevant jurisdictional representatives; transboundary agreements

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