

HSAF Webinar Meeting 5 – 8th June 2010

Final Minutes

Webinar 5 Meeting Date and Times

Tuesday 8 June 4 am – California, USA (David Harrison)

Tuesday 8 June 6 am – Chicago, USA (Refaat Abdel-Malek)

Tuesday 8 June 7 am – Washington DC & New York, USA (Daryl Fields, Courtney Lowrance)

Tuesday 8 June 11 am – Iceland (Gudni Johanneson)

Tuesday 8 June 12 noon – UK (André Abadie, Kristin Schumann, Richard Taylor, Desmond Manful)

Tuesday 8 June 1 pm – Norway (Geir Hermansen, Karin Seelos), Germany (Joerg Hartmann, Kirsten Nyman), Zambia (Israel Phiri), Italy (Donal O’Leary)

Tuesday 8 June 7 pm – China (Zhou Shichun, Yu Xuezhong)

Tuesday 8 June 9 pm – Hobart & Melbourne, Australia (Andrew Scanlon, Michael Simon, Helen Locher)

Webinar 5 Agenda (based on UK times)

Connections 11:45 – 12:00

Item 1 12:00 – 12:15 Confirmation of connections, on-line procedures, agenda

Item 2 12:15 – 12:30 Draft2 Final HSAP Introduction

Item 3 12:30 – 12:45 Draft2 Final HSAP Early Stage

Item 4 12:45 – 13:00 Draft2 Final HSAP Preparation

Item 5 13:00 – 13:15 Draft2 Final HSAP Implementation

Item 6 13:15 – 13:30 Draft2 Final HSAP Operation

Item 7 13:30 – 13:45 Forward timetable, including Webinar 6

Item 8 13:45 – 14:00 Other Issues

Meeting close 14:00

AGENDA ITEM 1 – OPENING

Present: Refaat Abdel-Malek (IHA), Michael Fink (IHA), David Harrison (TNC), Geir Hermansen (Norway), Helen Locher (IHA Forum Coordinator), Desmond Manful (IHA), Kirsten Nyman (Germany), Donal O’Leary (Transparency International), Andrew Scanlon (Hydro Tasmania), Karin Seelos (Statkraft), Yu Xuezhong (China)

Apologies: André Abadie (Forum Chair), Daryl Fields (World Bank), Joerg Hartmann (WWF), Gudni Johanneson (Iceland), Courtney Lowrance (Equator Banks), Israel Phiri (Zambia), Zhou Shichun (China), Michael Simon (Oxfam)

Michael Fink represented the IHA Central Office on behalf of Richard Taylor. Karin Seelos from Statkraft was invited to participate in the meeting to provide good linkages with the IHA Reference Group, who undertake a detailed 4-day review of the Draft2 Final HSAP from 12-15 June 2010. Desmond Manful, the IHA’s new Sustainability Officer, was also invited to participate.

The primary purpose of this meeting was to share initial impressions of the Draft2 Final Hydropower Sustainability Assessment Protocol (HSAP) documents distributed for review on 24th May 2010. Requested additions to the agenda, discussed under Item 8 Other Issues, were (a) the modalities for the formal closure of the HSAF; and (b) the planned briefing on the HSAP at the HydroVision conference in July 2010.

A number of Forum members were for various reasons unable to participate in this webinar. These minutes are a record of discussions and do not represent consensus views or agreements of the Forum.

AGENDA ITEM 2 – DRAFT2 FINAL HSAP INTRODUCTION

The main discussion point regarding the Draft2 Final HSAP Introduction was the list of nine outstanding issues that appears on page 2 of this document. Views expressed included:

** 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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- The presentation of dissenting views in the Introduction appears too early, too prominently, and too heavily.
- The form of presentation makes sense to Forum members involved in Forum Meeting 9, but to those not close to the Forum process it comes across as a bit hard to understand.
- The nine points are very content specific, whereas there are broader areas of divergent views (for example on the approach to the Early Stage HSAP).
- A hope to reduce to a much shorter list of divergent views, in terms of achieving further consensus on compromise approaches.
- There may be other additions to the list given that there are sixteen open issues listed in the minutes to Forum Meeting 9.
- A desire to use a more consolidated style of expression rather than the detailed technical expression that is used at present; one option raised was to express them as principles.
- A desire to present the areas of divergence in the context of much greater emphasis on how much convergence there is.
- A desire to present the areas of divergence in the context of the next phase, for example that these are areas of the Protocol that will be of particular interest to test, and to follow the evolution of international policy and practice.
- Concerns that the inclusion of divergent views in the opening section of the Protocol Introduction can impact on the utility of the Protocol as a clear-cut assessment tool, by portraying uncertainty or doubt, and risks reducing confidence in the final product.
- Concerns about the risk of creating confusion in understanding of what is expected in a Protocol assessment by the assessor or project representatives.

David Harrison conveyed on behalf of Michael Simon that Oxfam wants to have its dissenting views clearly recorded and very prominent. Oxfam is concerned that someone might pick up the Protocol documents and believe that all organisations involved in the HSAP are behind all of the content, scoring levels and expressions used.

The participants discussed the remaining open issues, and that there may be other areas for which closure and consensus is not able to be achieved. It was not clear what process could be followed to record divergent views for these open issues along the lines of that followed in Forum Meeting 9. The style of presentation of the divergent views in the Introduction is an artefact of the process followed at Forum Meeting 9, and because this cannot be replicated for all the remaining issues a more consolidated method of expression may make sense. The participants discussed as an example the Early Stage HSAP, on which the Forum members hold highly divergent views but a way forward has been proposed and (subject to review) may be agreeable as a compromise outcome for the Final HSAP.

The participants discussed whether identification of divergent views needs to appear in the Introduction at all, and what alternatives exist for where and how they can be found. There were no objections to the recording of divergent views, but some strong concerns about this appearing in the Protocol documents themselves. Recording of divergent views in correspondence from Forum member organisations was raised as an option. The approach in the World Commission on Dams report in which one of the Commissioners wrote a letter presenting a dissenting view was called to the attention of the participants (noting in this case that it was embedded in the final report itself). It was noted that there is always the option to not endorse the Protocol if an organisation does not support the content; partial endorsement was discussed but there was not any specific proposal on this.

Webinar 5 Action 1: *The Forum Coordinator will provide a proposal for an alternative method of expression of divergent views that takes into account all of the issues raised.*

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Karin Seelos expressed concern about how the Knowledge Base is presented in the Introduction as part of the package to be adopted or endorsed. Helen Locher clarified that it is not intended to be tabled for adoption or endorsement, but is intended to be a product of the Forum process.

Webinar 5 Action 2: *The Forum Coordinator will review the wording in the Draft2 Final HSAP Introduction with respect to adoption or endorsement of the HSAP Knowledge Base, and make a proposal for edits if required for greater clarification.*

AGENDA ITEM 3 – DRAFT2 FINAL HSAP EARLY STAGE

David Harrison expressed a view that the Early Stage HSAP captures the compromise that was agreed at Forum Meeting 9, and The Nature Conservancy is willing to support this version. He feels it has been taken about as far as it can be within the Protocol context. He did not feel it needs to be listed as a divergent view, but would not mind some text about the interest of some Forum members in its future development.

Andrew Scanlon was of the view that the Forum had gone to considerable lengths to address the concerns raised by the IHA Reference Group on the Early Stage HSAP (previously Section I Strategic Assessments), and based on preliminary feedback major concerns do not appear to be being raised. Andrew Scanlon and Karin Seelos advised that comment had been received from IHA Reference Group members in relation to topic ES-9 Economic & Financial Issues & Risks and the basic requirement being to deliver a net benefit to project affected communities, as well as topic ES-2 Options Assessment. The IHA Reference Group will be discussing what exactly these are implying for the industry when they meeting in mid-June to collectively review and discuss the Draft2 Final HSAP.

At this point in the webinar David Harrison and Donal O'Leary expressed concerns about the IHA Reference Group review, and how the Forum would be able to handle any substantive issues arising from this review from a process perspective. This discussion is captured under Agenda Item 7 Forward Timetable.

AGENDA ITEM 4 – DRAFT2 FINAL HSAP PREPARATION

A major issue discussed with respect to the Preparation HSAP was with respect to inclusion of Transboundary Issues as its own topic (P-24, also I-21 and O-20). Yu Xuezhong advised that he had accompanied Richard Taylor in discussions on the transboundary matter with officials in China following Forum Meeting 9. The discussions were conducted through the National Energy Administration, under the auspices of the National Development and Reform Commission. The main issue arising for the Chinese is that transboundary dialogue must be conducted at the governmental level between the riparian states; it is a government-to-government issue that is at a level above the project. Dr Yu advised that the Chinese government view is that it is best assessed in the Early Stage section (it is presently addressed under ES-4 Political Risk), and removed as its own topic from the Preparation, Implementation and Operation sections.

The webinar participants discussed the importance of having China fully engaged with the Protocol. They also noted the extensive discussion of this issue at Forum Meeting 9, with the resultant agreement being to address transboundary issues as a cross-cutting issue if the edits recommended from this meeting did not alleviate the concerns of the Chinese government. It was noted that particular topics such as Downstream Flow Regimes (P-23, I-20 and O-19) do not have a geographical constraint, and that the transboundary perspective may already be adequately covered within the Protocol. The main requirement was felt to be a need to check that it is adequately covered, and to utilise guidance notes if necessary to ensure the issue is recognised appropriately for the most pertinent topics.

Webinar 5 Action 3: *The Forum Coordinator will develop a proposal for inclusion of transboundary issues as a cross-cutting issue in the Protocol. Forum members*

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interested in being involved in development of this proposal should get in touch with Helen Locher as soon as possible.

Karin Seelos called attention to the engagement of the Brazilian industry in use of the Protocol as also being of high strategic importance. She advised that some concerns have been raised from Brazilian IHA members about how the Protocol fits in their national context. For example, in Brazil under national legislation only the government can negotiate with indigenous peoples, so the IHA Reference Group will be looking closely at the wording about negotiation under the Indigenous Peoples topic (P-15, I-11, O-11). There is also wording in a few other topics to which the Brazilians have also called attention (including Economic Viability, Project Affected Communities, Integrated Project Management, Resettlement and Procurement), which will be a focus of discussion at the IHA Reference Group meeting.

Other areas to which attention was called included:

- Incorporation of references to public disclosure in the Draft2 Final HSAP.
- Potential auditing difficulties with some of the Level 5 expressions, for example “broad considerations”, “emerging risks and opportunities”, and “going beyond the project”.
- Concerns about the need for confidentiality of certain types of information.
- Reference to international standards (e.g. ISO 14001 in topic P-5).

AGENDA ITEM 5 – DRAFT2 FINAL HSAP IMPLEMENTATION

Donal O’Leary inquired if there were any particular drafting issues with the Implementation document, since it had not been available at Forum Meeting 9. Helen Locher advised that the guidance arising from Forum Meeting 9 had been very practical and useful, and no drafting difficulties were encountered. The main review question Helen advised would be of value was whether the Implementation HSAP adequately captures the particular considerations, issues and risks that arise at this project stage, particularly with reference to Assessment Guidance notes.

AGENDA ITEM 6 – DRAFT2 FINAL HSAP OPERATION

Feedback on the Operation HSAP, which had been of very high concern to industry in earlier drafts, was that it was much better tailored to the realities of this life cycle stage. The introduction to this section that acknowledges that industry is operating under agreed licence conditions was well received by IHA. A discussion point at the IHA Reference Group meeting will be whether a score of 3 should reflect respecting the existing licence conditions.

AGENDA ITEM 7 – FORWARD TIMETABLE

It is recognised that the above issues are only an early identification. They are not inclusive, and in some cases issues flagged now may not formally be tabled as issues once they have had the benefit of some discussion.

Helen Locher advised that there are only the following items on the Forum’s forward timetable:

- Mon 21 June – last date for circulation of any changes proposed to HSAP Draft2 Final
- Mon 28 June – circulation of **HSAP Draft3 Final** documents
- Week 5 July or 12 July – **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

David Harrison and Donal O’Leary had expressed concerns under Agenda Item 3 (Early Stage HSAP) about the process of review by the IHA Reference Group in their meeting in Turkey from 12-15 June 2010. The understanding was that the Forum is closed after Webinar 6, and the

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Forum is not structured to accommodate a negotiation with the IHA Reference Group. There were strong concerns expressed about what might come out of this meeting, and the Forum's inability in the forward program to process any issues. The view of David and Donal was that if any substantive issues are raised it would be necessary to have a final meeting, because it would not be possible to resolve substantive issues via a webinar.

The webinar participants were advised that the IHA Reference Group is an advisory group for the IHA Board, and is not a negotiating forum. It is necessary for the IHA Board to get the review of this reference group, and feedback from it on whether there are any showstoppers for industry with the Draft2 Final, to enable the IHA Board to recommend to IHA members to adopt the Protocol. It was considered that this review should be seen very positively, as it provides an opportunity to generate a high level of confidence by industry in the Protocol. It is uncertain whether substantive issues will be raised or not, and the Forum would have to discuss at Webinar 6 whether there are unresolved issues that require a final meeting or not.

The exact dates for Webinar 6 have not yet been determined due to a number of Forum members having issues of unavailability with the proposed date. It will be important to have as many Forum members able to participate as possible.

Webinar 5 Action 4: *The Forum Coordinator will send around a note to test availability for Webinar 6 for the weeks of 5th and 12th July 2010.*

AGENDA ITEM 8 – OTHER ISSUES

Requested additions to the agenda, to discuss under Item 8 Other Issues, were (a) the modalities for the formal closure of the HSAF; and (b) the planned briefing on the HSAP scheduled for the HydroVision conference on 27th July 2010.

With respect to formal closure of the HSAF, Helen Locher advised that the Forum is operating on the assumption that all issues raised can be resolved at Webinar 6. The possibility of a final meeting cannot be addressed until the Forum understands what issues are on the table for resolution after submission of written comments on the Draft2 Final HSAP. The understanding is the Webinar 6 will be the closing meeting.

Michael Fink advised that it will be a function of the governance entity for Phase 2 to control future changes to the Protocol. Proposals on how the governance and management bodies will function remain to be scoped, however, and this requires attention.

Geir Hermansen felt that the definition of a next phase is highly relevant to the Forum discussions on the closure of Phase 1, and put considerable emphasis on this point. He proposed that IHA might take the lead on inviting interested HSAF members to come to London to discuss the design and establishment steps for Phase 2. This point and the associated proposal was supported by other webinar participants, with the option raised of having such a meeting at the HydroVision conference.

Michael Fink advised that a workshop on the Protocol is scheduled at the HydroVision conference in Charlotte, North Carolina, USA on 27th July 2010. This would be an opportunity to either present the successful outcome of the Forum or where the Forum is up to with development and finalisation of the Protocol.

Webinar 5 Action 5: *Forum members to advise Michael Fink and Desmond Manful at IHA as soon as possible about whether they will be attending the HydroVision conference.*

Webinar 5 closed at 2:15 pm UK time.

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SUMMARY OF ACTIONS

Webinar 5 Action 1: *The Forum Coordinator will provide a proposal for an alternative method of expression of divergent views that takes into account all of the issues raised.*

Webinar 5 Action 2: *The Forum Coordinator will review the wording in the Draft2 Final HSAP Introduction with respect to adoption or endorsement of the HSAP Knowledge Base, and make a proposal for edits if required for greater clarification.*

Webinar 5 Action 3: *The Forum Coordinator will develop a proposal for inclusion of transboundary issues as a cross-cutting issue in the Protocol. Forum members interested in being involved in development of this proposal should get in touch with Helen Locher as soon as possible.*

Webinar 5 Action 4: *The Forum Coordinator will send around a note to test availability for Webinar 6 for the weeks of 5th and 12th July 2010.*

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