

## A Giant Step Back from Current Rights and Standards

A Critique of the Key Components Document  
of the Hydropower Sustainability Assessment Forum

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### Summary

Created in 2007, the **Hydropower Sustainability Assessment Forum (HSAF)** consists of fourteen industry, government and civil society representatives. Its goal is to turn the International Hydropower Association's current Sustainability Assessment Protocol into a set of broadly endorsed new guidelines for "sustainable" hydropower projects. HSAF published an interim report entitled "Key Components Document" in January 2009 as a basis for its initial public consultation phase.

There are **several fundamental problems** with the approach taken in the Key Components Document. The document does not define any clear minimum standards that developers must follow, or rights that they must respect. It favors managing problems over avoiding them. This approach marks a stark departure from the WCD's rights-and-risks approach, which relied on negotiated, legally enforceable agreements with dam-affected communities. The document ignores several key concerns completely, and buries others in a host of less relevant aspects and attributes. If adopted, the HSAF approach will give a boon to consulting companies that will be hired to apply it, but will mark a huge step back from the rights and standards which have been fought for and established at the international level in the past thirty years.

HSAF has not yet decided on a **scoring method** for a future Protocol. However, if scoring follows the overall logic of the Key Components Document, it will allow low performance in some aspects (for example social impacts, human rights, governance) to be offset by higher performance in other aspects (for example project management, environmental impacts or economics). This contradicts basic tenets of sustainability.

The process which HSAF has taken so far illustrates an approach which **disenfranchises dam-affected communities** and their organizations. While the World Commission on Dams was based on an open, inclusive process, the HSAF is a self-selected group. Dam-affected people and Southern civil society networks are not represented at the negotiations. Their voices were not included among the external experts whom the Forum invited to make presentations at its meetings. HSAF started a belated consultation exercise in January 2009, halfway into the process. But due to a lack of outreach efforts, physical

meetings and translations, this consultation will not allow affected communities to effectively provide input into the process.

According to the Key Components Document, the revised SAP will consist of **four sections**: (I) Strategic Assessment, (II) Project Preparation, (III) Project Implementation, and (IV) Project Operation. Each section will consist of a series of aspects, which are in turn elaborated through a list of specific criteria or “attributes”. Performance along these attributes will be scored. The Key Components Document presents sections I (with 5 aspects) and II (with 31 aspects) in detail. No details have been provided on sections III (which will have 24 aspects) and IV (with 23 aspects), which will obviously be crucial for the outcome of hydropower projects.

### **No clear standards and rights**

The document does not define clear minimum rights and standards. Rather, it emphasizes managing all adverse impacts that may arise. For example:

- The document does not identify **compliance with existing laws and regulations** as a minimum requirement of sustainable hydropower projects. Instead, it proposes to score the level of compliance, using attributes such as the “likelihood of compliance with regional and national plans”, the “degree of conformance with relevant regional and international protocols and conventions” (7.3), and the “conformance to regulatory and policy requirements in relation to water use and quality” (7.10). Such an approach would not rule out projects such as the Ilisu (Turkey), Gibe 3 (Ethiopia), Jirau (Brazil) and Merowe (Sudan) dams, all of which are in violation of national laws and/or international norms.
- Instead of recognizing indigenous peoples’ right to **free, prior informed consent** (FPIC), the document proposes to score “understanding the legal rights as embedded in national and international law” (7.16). This approach would not rule out projects such as the San Roque Dam (Philippines), which violates national and international rights of indigenous peoples to free, prior informed consent.
- Instead of requiring **demonstrable public acceptance** of key decisions, the document proposes to score attributes such as the “level of stakeholder support” for the Social Impact Assessment (7.13) and Social Management Plan (7.14).
- The document does not require **International Competitive Bidding** under its procurement aspect, but merely proposes to measure attributes such as the “quality of the bidding documents, including addressing anti-bribery issues” (7.12). Such an approach would not stop dams such as the first Bujagali project (Uganda), which did not follow international competitive bidding requirements and ended in a corruption scandal.

- The document does not recognize the right of affected people to **access key project information**, but instead proposes to score attributes such as the “quality of the project communication strategy” (7.22).
- The document does not require or propose any **compliance mechanisms**, but instead proposes to measure attributes such as the “degree to which political risks are likely to be mitigated” (7.2).
- Instead of defining **labor rights** (such as the right to unionize) in project construction, the document proposes to score attributes such as the “quality of the labor management system” (7.21).
- The document does not require the **avoidance of environmental impacts**, but instead proposes to score attributes such as the “quality of the issues identification process” in the Environmental Impact Assessment, the “level of stakeholder support for EIA” (7.24) and the “degree of the alignment [of the EMP] with the EIA” (7.25).
- The document does not require the **avoidance of displacement**, but only proposes to measure attributes such as the “degree to which the final project location and design practicably minimizes disturbance to existing features and activities” (7.5), and the “degree to which the Social Management Plan has effective measures to comprehensively avoid, minimize, mitigate and compensate for social impacts and where possible enable social enhancement” (7.14). Since the Social Management Plans will only be prepared after the project site has been identified, the document’s references to avoidance and minimization are futile, and the real focus is on mitigation.
- The document does not require **land-for-land compensation**, or in fact any other compensation, but merely proposes to measure the “degree of change in living standard of directly affected stakeholders” (without indicating any timeframe) and the “level of compliance with resettlement legislation and standards requirement” (without identifying any standards) (7.18). The related policy objective stipulates “*ideally* that standards of living are improved for both displaced and host communities” (emphasis added).
- The document does not stipulate any **no-go areas** for dam building such as national parks, World Heritage Sites or Ramsar sites. It merely proposes to measure attributes such as the “degree to which the final project location and design practicably minimizes environmental and cultural heritage sites” (7.5), the “quality of plans to manage for biodiversity and conservation objectives”, and the “degree to which biodiversity and habitat management plan is likely to achieve objectives” (7.29). This approach would not stop the proposed dams on the Nu River (China), which endanger a World Heritage Site, nor the Mphanda Nkuwa Dam on the Zambezi River, which would endanger a Ramsar site.

- The document does not require that affected people must be the **first beneficiaries** of hydropower projects, but merely proposes to score the “quality of the benefit sharing plan” (7.23).

### **Important aspects ignored or neglected**

The document ignores important aspects completely, and buries others under a host of less important aspects and attributes. The following examples illustrate these gaps:

- The Key Components Document fails to address the **human rights situation** in the host country or region. Its proposed method for political risk assessment only addresses the risks to investors, and not to affected communities (for example in the form of exacerbated conflicts). Such an approach ignores the serious human rights violations which were perpetrated to promote dam projects in countries such as China, Guatemala, India, the Philippines and Turkey.
- The document fails to address the outstanding social and environmental problems of **existing dams** on the same basin and/or developed by the same developer.
- The document does address the key aspect of **needs assessments**. Yet it confuses the *need* for electricity (which is a social aspect, for example related to health care, education, and poverty reduction) with electricity *demand* (which is a pure market aspect and includes demand from aluminum smelters, wasteful consumption etc.). It purports to address the need for electricity, but only proposes to measure the assessment of electricity demand (6.1).
- Unlike the WCD report, the document does not require that social and environmental aspects be given equal weight with economic consideration in the **assessment of options**. The policy objective on options assessment states: “The objective is to ensure that hydropower development is supported as a priority option for addressing development needs” (6.2). The objective of options assessments should of course be to identify the socially, environmentally and economically most suitable energy option, not a particular option such as hydropower.
- The document fails to take a **basin-wide approach** to the planning, assessment and development of hydropower projects, and fails to deal with their **cumulative environmental and social impacts**. Such an approach would not address the problems of dam cascades such the projects in Sikkim (India), which if built will turn the Teesta Valley from a fertile ecosystem and homeland of the Lepcha people into a system of tunnels and dry riverbeds.
- The document fails to deal with important aspects of **displacement** induced by hydropower projects, including the compensation for land and other property, the treatment of traditional land rights, and compensation of lost access to common goods, including for downstream communities. Such an approach would not deal

with the problems of the indigenous peoples in the Narmada Valley, whose land rights have never been registered by the Indian state.

- While the document does not deal with displacement issues properly, it completely fails to address the large population groups (such as downstream communities) which are not displaced but which are affected because they **lose land and access to common resources such as fisheries** etc. Such an approach would not address the situation of thousands of people who will lose their work in riverine sand quarries due to the Omkareshwar and Maheshwar dams in India, or the problems faced by hundreds of thousands of people living downstream of dams on the Indus in Pakistan, and of the proposed Gibe 3 Dam in Ethiopia's Omo Valley.
- The document deals with the safety risks of dam failure, but although many dams are being built in earthquake-prone areas, it ignores the risk of **reservoir-induced seismicity**.
- The document almost completely fails to deal with the **climate impacts** of hydropower projects. It proposes to measure the "quality of the assessment of greenhouse gas emissions" as one of eight attributes of the aspect, Reservoir Management (7.27). It does not address actual greenhouse gas emissions from reservoirs. Under this approach, the Balbina Dam (Brazil), which emits a much higher amount of greenhouse gases than a natural gas plant of the same capacity, would not be considered unsustainable as long as its greenhouse gas emissions had been properly assessed.

### **The fundamental problems of scoring**

As the document states, scoring is "**an essential feature**" of the Sustainability Assessment Protocol (2.3). HSAF has not yet decided on the Protocol's exact scoring method. If it follows the overall logic of the Key Components Document, it will compound rather than address the document's problems.

The Key Components Document asserts that the assessment will rely "on objective evidence to support the score, that is, evidence that is **factual, reproducible, objective and verifiable**" (2.1). Financiers, developers and governments are eager to work with an objective method to assess hydropower projects. Yet most of the attributes presented in the current document are vague and inherently subjective – there is nothing "factual, reproducible, objective and verifiable" about them.

The document illustrates a potential **scoring method** with the aspect on Biodiversity and Pest Species in the International Hydropower Association's existing Sustainability Assessment Protocol. This aspect awards the top score of 5 to projects that have "adequate and suitable plans for understanding of relevant catchment, in-reservoir, and downstream biodiversity issues". In projects such as the Nam Theun 2 Dam (Laos), there has often

been strong disagreement regarding whether the proposed environmental management plans were “adequate and suitable”, and the document does not offer any objective criteria that could resolve such disagreements.

The document gives examples for **evidence** upon which the attributes will be scored. This evidence primarily consists of reports prepared by the project developers and consultants. The proposed method will thus lead to more consultants assessing other consultants’ work. In a few cases, the document also mentions “stakeholder interviews” or “records of stakeholder input and feedback” as evidence. Yet nowhere does the document make clear that the accounts of project-affected community are crucial for assessing the sustainability of hydropower projects.

Scoring all aspects and attributes with equal weight will compound the fundamental problems of the Key Components Document in two ways. First, all aspects are elaborated with **process and performance attributes**. Scoring process and performance with equal weight will not give proper weight to project outcomes. With such an approach, developers who hire savvy consultants and go through all the motions of a future Protocol will achieve a decent sustainability score without any regards to project outcomes. This will provide a boon to consulting companies, but will not necessarily benefit affected people and the environment.

The revised Protocol will consist of **more than 80 aspects**, most of which will have approximately 8-12 attributes. Important topics will be addressed among dozens of other aspects and hundreds of other attributes (if they are not excluded completely). If all aspects are scored with equal weight, key concerns such as displacement will not receive more emphasis than relatively marginal issues such as Integrated Programme Management (7.6), which are treated as full aspects in their own right.

If the scoring method follows the overall logic of the Key Components Document, its second fundamental weakness is that a low performance in crucial aspects (for example social impacts, human rights, governance) can be offset by a higher performance in other, less relevant aspects (for example project management, environmental impacts or economics). Such an approach would allow projects that displace and impoverish hundreds of thousands of people or destroy important ecosystems to be rated as sustainable. This **contradicts basic tenets of sustainability**.

## **Conclusion**

The approach expressed in the Key Components Document ignores important lessons of the large dams debate, and the development and environmental policy debate more generally. It will weaken key international standards, and will not achieve the clarity which dam funders and investors are seeking. The HSAF process will exacerbate conflict, and will not achieve the “broad endorsement” which the dam industry is seeking. **It does not have the legitimacy to replace the WCD framework as the leading international benchmark for hydropower projects** and other dams.