

I wish to begin by expressing the strong sense of honour and privilege that I feel at having been invited and asked to speak at the 4th Annual Meeting of the Infrastructure Consortium for Africa (ICA). As one who has for a while now lamented the fact that water seems to enjoy a rather low priority and profile in the NEPAD water infrastructure programme, I feel overwhelmed by this opportunity.

I have been asked to focus on the all important matter of transboundary water resources management in Africa. I am to discuss the current African experience in transboundary water resources management based on my practical experiences in Southern Africa. I have asked to comment on what has worked well and what hasn't fared so well. I am then expected to identify key messages and actions for African governments and development partners.

True enough it is hardly possible to be involved in water governance in Africa without having to deal with transboundary water resources management. This is hardly surprising with 70% of Africa's freshwater resources occurring in the 60-odd shared rivers of the continent. Simply put, the preponderance of shared rivers in Africa is a distinguishing feature of the continent's water situation. Water is unevenly distributed geographically and over time, and climate change is expected to have a significant impact on rainfall patterns and distribution of the resource with a higher frequency and intensity of droughts and floods. There is also an overall increase in the demand for the resource due to population growth, improving standards of living and development pressures. We need to bear in mind that Africa's success in achieving most of the millennium development goals will depend on the sustainable extent of access to water. It has been widely documented that water is central to our efforts to meet our targets in health, food security, energy, transport, industrial development and education, as well as in our fight against the ravages of aids. We in the water sector have often been at pains to remind our colleagues in the energy sector that hydropower is essentially about water resources development and that its development must of necessity respond to the principles of water resources management. Climate change is expected to have its highest impact on water. We will require water resources management responses if we are to adapt adequately and cope.

Thanks to the World Bank, we are always reminded that Africa , globally, has the lowest water storage capacity ranging from 43-746 m³ per person per year and has developed less than 10% of its hydropower potential. North America, on the other hand, has a water storage capacity of 6,150 m³ per person per year and has developed 60% of its hydropower potential. There are only 1,275 large dams in all of Africa as opposed to 45,000 the world over as identified by the World Commission on Dams. Of the dams in Africa, 539 are in South Africa, 213 in Zimbabwe and 107 in Algeria. Clearly there is an urgent need to develop water infrastructure.

Water Resources Management in SADC

The management of transboundary water resources within the Southern African Development Community must be viewed against the background of the central goals of the African Union, namely regional economic integration for overall poverty reduction.

The establishment of African Ministers' Council on Water (AMCOW) was a clear sign of Africa's resolve to assume political responsibility and provide leadership in the management of Africa's largely transboundary water resources. We expect formalization of AMCOW's incorporation into the African Union as a Specialised Technical Committee in the very near future, as a follow up to the decisions taken at the AU Extraordinary Summit on Agriculture and Water that took place in Sirte, Libya, in 2004.

It has to be stated that with the Exception of SADC and ECOWAS, the establishment of regional coordinating mechanisms for water resources at the level of Regional Economic Communities (REC's), has not been successful in the other sub-regions of Africa. This represents a failure to put in practice the vision of REC's as the African Union's regional nodes of implementation. Efforts have been hampered by the existence of many regional groupings on the Continent, such that it is not uncommon for countries to belong to three such groups, which tends to work against the kind of regional cohesion that is evident in SADC.

It is regrettable of course that the mother body itself, AMCOW is yet to establish its own permanent Secretariat, a fact that has affected its effectiveness as an organisation. This has had the regrettable impact of deflecting attention away from the great strides that AMCOW has taken in the very short time of its existence. If all goes according to plan, it is expected that AMCOW will engage an Executive Secretary within a month, thus clearing the way to establishing a strong Secretariat in ABUJA Nigeria, in the short term. It is to be hoped that as one of his or her first activities, the Executive Secretary will seek to establish regional nodes or offices whose mandate will be to coordinate sector programmes in the sub-regions where such bodies do not exist.

AMCOW Multi-stakeholder Forum

The recent land mark decision by AMCOW to embrace civil society as a partner in the quest for achieving sustainable development in the sector is indicative of the ground already covered since AMCOW's launch in ABUJA in 2004. In formalizing its relationship with the African Civil Society Network on Water and Sanitation (ANEW), and with the Global Water Partnership, both through negotiated Memoranda of Understanding, AMCOW has openly declared its readiness to work with civil society and its recognition of the critical role that civil society can play in the work that lies ahead. One has also been struck by the level of maturity that ANEW has brought to the partnership.

The Global Water Partnership (GWP) is an established technical network that brings an unprecedented level of penetration at regional, sub-regional and national levels, while

promoting integrated water resources management (IWRM). GWP has now seen its way clear to go beyond mere advocacy and to provide IWRM related technical support in areas such as climate change adaptation and infrastructure development.

It is evident that consensus has been built around the fact that, in order to attain its development goals, Africa has to build the necessary infrastructure to increase its storage capacity, manage and distribute the resource according to need in times of stress, and utilise it as necessary to satisfy environmental, social and other developmental needs.

There is also consensus that the environment is a legitimate user of water. There is widespread agreement that mistakes were made in the past in the choices we have made regarding the types of infrastructure that we have built, such as single purpose dams, often without regard to the impact on local and other communities or their needs. There is also agreement that we must be prepared to learn from all these mistakes.

These conclusions were reached by over 30 African Ministers of Energy and Water with substantial input from civil society, at their meeting in Johannesburg, in March 2006.

What now remains is for us to bring this new partnership to bear in implementation.

The SADC Experience

All sectors within SADC have created cooperative arrangements through formal mechanisms such as binding protocols, aimed at achieving the SADC goal of regional economic integration. Individual sectors such water, energy, tourism, transport and others are in turn organised into clusters to ensure early complementarity and sustainability. The SADC Protocol on Shared Watercourses which came into force in 2003, thus aims to create a binding framework that utilises water as the focus of cooperation between states using the river basin as the arena for cooperation. The Protocol itself is inspired by and borrows from the principles of customary international law as contained in the 1997 United Nations Convention on the Non-Navigational uses of International Watercourses. Some of the central international law principles in the protocol are “the duty to prevent significant harm” and that of “equitable and reasonable use”. For my own country, South Africa, meeting international obligations in our management and use of transboundary waters, is explicitly listed as a purpose of our National Water Act 36 of 1998.

Under the gentle prodding of the SADC Water Division in its oversight role, river basin agreements have been negotiated, agreed and are in force in all but a few of our basins. These agreements establish river management bodies on which member states enjoy equal representation, and determine the basin management framework including members’ obligations and roles, rules of engagement, and procedures. In a fair number of these bodies, often referred to as Commissions, the member state’s requirement to inform other basin states of intended developments on their territories, has become a fixed item on the agenda. This requirement obliges states to inform others even as early as the pre-feasibility stage, thus enabling them to comment and raise their concerns as early as possible in the planning of a project. This has already proved quite effective and satisfactory. Already all these river basin organisations are delivering on their basic

mission to undertake joint studies, share information, build a common information base, coordinate plans, etc.

In almost all cases, member states have had to review water legislation to bring it in line with the Protocol. This process has been undertaken under a special programme driven by the SADC Water Division. The regional body has at times been called upon to interpret clauses of the protocol thus avoiding potential deadlocks. By and large however, it has been the political will of member states that has carried this potentially difficult process forward.

Comment on the Protocol

While it is both commendable and practical that the Protocol has not attempted to be prescriptive and allows each basin to craft its own agreement, one of its shortcomings has been its failure to limit the time countries may take after the conclusion of the text of the agreement, in whose negotiation they have participated, and its actual signature and/or ratification. Although it is to be expected that national processes may take time in certain countries for whatever reasons, it has become clear that there ought to be a cap on the time that states should be allowed. There have been cases already where such delays have begun to cause major inconvenience amounting to blocking progress on such issues as attaining the legal personality necessary to enable the river basin organisation to establish a secretariat or receive funding.

Another weakness of the Protocol is its virtual silence on groundwater in a region in which groundwater is of such critical importance. As a result, it may be necessary to negotiate an annexure to the protocol to cater for groundwater resources management.

Consolidating River Basin Organisations

Many of the RBO's have elected to create the necessary confidence of member states in the system and amongst each other, as a first step in the consolidation of these bodies. Comprehensive basin studies are therefore being undertaken and extensive planning exercises are going on in many of the RBO's such the Orange-Senqu, the Limpopo, the Ruvuma, the Zambezi and the Maputo rivers, to mention a few. All this is being done to provide riparian states with mutually credible information to facilitate future management and project implementation decisions. This approach has gone a long way in achieving its purpose.

A number of the Commissions such as the Okavango River Commission (OKACOM) and the Orange-Senqu River Commission (ORASECOM) have each recently established a formal coordinating mechanism by way of a Secretariat. Both have recently engaged Executive Secretaries and are in the process of recruiting the rest of the secretariats' staff. In both cases the riparian states have opted to establish secretariats that are funded and maintained by member states and not dependant on donor funding, in the desire to achieve sustainability. It is our hope and expectation that this will become the norm rather than the exception.

Both OKACOM and ORASECOM have taken two very different but practical routes to establish basin-wide stakeholder participation. Although OKACOM was compelled out of necessity to conceive and implement its stakeholder participation strategy, the outcome has been an open, transparent and highly participative model involving grass- roots NGO's and communities, that has been widely acclaimed as worthy of replication elsewhere on the continent. ORASECOM chose the route of initiating the process by first seeking a mandate from its four member states. What followed is a workshop-driven process involving basin stakeholders, and local and international experts. The commission deliberately avoided a consultant driven process. While the ORASECOM strategy is yet to be tested, it is being incorporated into a basin management plan that is under implementation.

IWRM Adoption, Planning and Implementation

Integrated Water Resources Management (IWRM) has been Africa's preferred water resources' management approach since the adoption of the African Water Vision 2025 at the 2nd World Water Forum in the year 2000. The Water Division has worked hard and with remarkable success, in partnership with the GWP, and with funding from cooperating partners, to support member states to complete their IWRM and Water Efficiency Plans. SADC countries are well on their way in introducing IWRM reforms and developing plans. The marked exceptions have been Tanzania, the Democratic Republic of Congo and Madagascar. Some such as Angola have produced a roadmap but require support in effecting integration with other sectors. Support is needed for countries that have completed the process such as Malawi, Zambia, Swaziland and Mozambique to assist them with implementation. The cross sectoral planning that these countries are engaged in, as a result, should be supported in so far as it helps to give clear understanding of the role that water plays in their development and points to the levels of investment required.

The outcome of a recent regional dialogue held as a partnership between the SADC Water Division and GWP has indicated the need for pursuing vertical IWRM linkages, from the national through the basin, to the sub-regional level in order to address the critical challenges of adaptation to climate change, while sustaining momentum to achieve socio-economic development.

Comment on Levels of Donor Support

IWRM planning, has not received the kind of sustained support that it deserves. I say this fully aware and grateful to those partners that have provided assistance and stayed the course.

Recent Experiences with Infrastructure Development within SADC

The recent AMCOW decision to establish a multi-stakeholder platform for inclusive water resources management has already found practical expression on the ground in the region. There has been a steady accumulation within the region of lessons learnt from past and recent dam projects, and a growing regional awareness of what it will take to strike a balance between the imperatives of development and the need to maintain sound environmental and social outcomes.

A close look at environmental and social policies around dams such as the Lesotho Highlands Water Project, the Driekoppies Dam in Mpumalanga, South Africa, its twin project the Maguga Dam in Swaziland as well as the Berg-Water Project in South Africa, reveals a clear linear pattern of improving attention to stakeholder involvement in the conception, planning and execution of water infrastructure, and a move away from single purpose structures.

The Maguga Dam in Swaziland is a case in point. As a jointly developed project between South Africa and Swaziland the project has established a governance system in which the two countries enjoy equal representation on the Joint Water Commission (JWC) to oversee the efficient management of the project, which is carried out through the Komati Basin Water Authority (KOBWA). KOBWA is a neutral body run by Swaziland and South African citizens based purely on merit and a governance system duly empowered to ensure that. This has created a highly professional working relationship at the authority.

Both countries have funded the project from their own national budgets. Swaziland has for instance borne the cost of the hydropower component of the project which is intended for the country's internal power needs. Learning from the shortcomings of other projects in the region, the project authorities involved the strong leadership of affected communities at the early stages, giving them the space to negotiate the best resettlement and compensation policies yet seen in the region.

The project was used as a case study in a recent seminar that brought together some 70 odd sector professionals, academics, policy and decision makers, representatives of power and water utilities, NGO's and civil society leaders from the countries of East and Southern Africa. There was general agreement among the participants that the project met the highest environmental and social policy standards, making it commendable for emulation.

The ability to reach consensus between NGO's and advocacy groups on the one hand and government officials and private sector representatives on the other, bodes well for the region's ability to conceive and plan infrastructure projects in future.

Unlike the Maguga dam, whose construction began in the mid-nineties, the Lesotho Highlands Water Project Treaty was signed in 1986, with implementation beginning in the late eighties when environmental science was still very much at its infancy. What is remarkable about this project today is the extent to which the partner countries South Africa and Lesotho, have successfully managed to retrofit many policy elements in a way

that has withstood intense scrutiny and attained universal acceptance, several years after project implementation began. The project prides itself in having been a pioneer in introducing social impact considerations into its in-stream flow requirements policy, otherwise known as the DRIFT approach.

Benefit Sharing

The project is also in many ways an example of benefit sharing in practice. This is partly due to the fact that both countries saw value in it for completely different reasons. For South Africa it provided the cheapest option to augment supply to its water thirsty industrial heartland of Gauteng, while for Lesotho, it was a means to develop a hitherto inaccessible area of the country, boost the resource-starved country's tourism potential, generate hydro-power and earn much needed revenue in the form of royalties. The Treaty introduced two royalty streams. Variable royalties are calculated on the basis of quantities of water transferred, while fixed royalties are based on sharing, at close to a 50-50 ratio, the potential savings to South Africa accruing from choosing the cheapest available augmentation option.

In a region that has many examples of single purposes dam projects that were often planned in disregard for the needs of or impact on neighbouring communities, these relatively new water infrastructure developments provide a body of valuable local knowledge, experience and lessons for the implementation of future projects.

A significant outcome of the seminar referred to earlier, was to prepare a capacity building roadmap aimed at creating awareness around environmental and social aspects of infrastructure projects as well as developing the ability of communities to identify, articulate and defend their interests.

Comment on Individual Countries Preparedness to Comply

*It is important to note that countries are not at the same level of political appreciation or readiness to accept these approaches. Now that a broad consensus has been reached and a regional consciousness has been developed it becomes a lot easier to exert peer persuasion on a case by case basis. (It may prove useful to embark on carefully chosen pilot projects for demonstration effect and pursue a learning-by- doing approach). What is critically more important is the growing convergence of views between civil society and the formal sector.

Conclusions and Recommendations

- There is a strong need to consolidate coordinating mechanisms for water at the continental, sub- regional and basin levels. This requires resources. The southern Africa experience shows that some core funding can be provided by member states. Development partners could contribute to capacity building, the setting up of systems, developing decision support tools and programme implementation. These interventions need not be for an indefinite period.

- Strong coordination capacity is critical at the sub-regional level from where basin level cooperation can be supported and encouraged. AMCOW should be assisted in establishing interim coordination bureaus using the task manager system it has already been using to great effect with institutions such as the African Development Bank and UN-Water/ Africa. The GWP could provide able backstopping assistance to such offices if established in Central and East Africa.
- Sustaining stakeholder participation mechanisms, especially at the early stages and undertaking capacity building on key issues relevant to sustainable infrastructure development will also require substantial resources. Success in developing ownership through effective stakeholder participation is seen as likely to increase investor confidence. However,
- There is general concern that since the establishment of AMCOW, little by way of tangible results has emerged that directly contributes to the betterment of the lives of people on the ground in most parts of the sub-region. This may prove a deterrent for politicians considering support for the stakeholder participation route. It is important that an early attempt is made to ensure that there are concrete outcomes that these capacity building measures are contributing to.
- Major water infrastructure projects are typically expensive and take several years to implement. While it is important that African governments undertaking such projects should pool resources for their development, development partners should prioritise allocating substantial funds to water projects. With the rising profile of environmental and social issues, the planning and implementation of such projects is likely to be even more complex. Targeted support should be given to their planning which should ideally start sooner.
- Examples such as the Zambezi River Authority, KOBWA and the LHDA where countries have pooled their resources to implement a project, deserve support and encouragement. There is merit in assisting countries to establish implementation authorities for projects of mutual benefit.

**TRANS-BOUNDARY WATER RESOURCES
MANAGEMENT:
LESSONS FROM THE SOUTHERN AFRICAN
DEVELOPMENT COMMUNITY (SADC) REGION**

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