Southern African Development Community

Water Sector Support Unit - Gaborone

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Case of the Orange – Senqu River in Botswana

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Institutional Analysis for ORASECOM

Report No. ORASECOM 006/2009

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Executive Summary

Background

This report provides an Institutional Analysis for ORASECOM, proposing institutional roles and responsibilities for structures within the organization. It is constructed from a review of international experience with transboundary water management institutions. This is set against a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis for ORASECOM, which helps ensure that the proposals are viable, but that they maximize opportunities. This is offset against the organizational needs as it moves towards the development, agreement and eventually monitoring of the Basin Wide Plan. This in turn ensures that the institutional form follows its function as envisaged for the next 5 years.

Key to this process is the inclusion of the perceptions of the role and mandate of the organization, as gathered from visits to each of the Member States.

The role and mandate for ORASECOM

ORASECOM is established as a technical advisor to the Parties. There is broad consensus that one of the primary mechanisms for developing these recommendations will be the development of a Basin Wide Plan. Although there is recognition that some recommendations may arise from shorter term studies – for example those that emerged from the FGEF supported work on the Highlands Sponges. However the form and extent of the Basin Wide Plan is not commonly understood. Nevertheless, the emerging perspective seems to be that the ***Basin-wide plan should provide the overarching framework for the basin***, focusing firstly on the <u>transboundary issues</u> identified through the Situation Assessment.

The two important implications of this are that Council must agree the form and extent of the basin-wide plan and its relationship with the bilateral arrangements and national planning, and the process of developing the plan before work starts on the plan. These concepts are captured in part in the draft Principles developed by the Secretariat. There is also broad consensus that ***ORASECOM would be responsible for coordinating and monitoring the implementation of the plan***

The implications of this are:

i. Delegations should obtain endorsement of the Principles from the Parties, and particularly with respect to the process of negotiating and agreeing the final plan/strategy,
ii. Delegations must represent their national planning perspectives (including integrated and sector plans) at both Council and Task Team level, and must identify when the Basin Wide Plan may have a significant impact on these plans.
iii. Council should explore the need for a Monitoring & Information Task Team as this role gains importance over the next couple of years.

There seems to be an emerging perspective (albeit not unanimously shared) that ***bilaterals should be sub-ordinate to ORASECOM.*** This means that, there must be agreement from the Parties of the sub-ordinate nature of the bilateral arrangements, and what the bilateral arrangements and ORASECOM would do vis-à-vis ensuring consistency with the Basin Wide Plan. This means that the

process of information sharing must be formalized (including clarity on what constitutes relevant information). This may also require clarity on the process of reporting to SADC.

There seem to be two seemingly contradictory perspectives prevalent amongst the Member States; first that ORASECOM provides a vehicle for Parties to represent their national interests in developing joint positions, or secondly that ORASECOM is a vehicle to adopt a common basin-level perspective / interest (considering national interests) in advising Parties. This means that Council needs to clarify and agree on the *modus operandi.* It nevertheless seems likely that Delegations need to be prepared to articulate broad national interests in relevant discussions and engage their Principals when an emerging basin-wide perspectives may not align with national interests, but also that annual or biannual Ministers Meetings should be arranged (through recommendation by Council to the Parties).

There is an emerging perspective that Council should become more strategic, the Task Teams focus on technical guidance to project under instruction from Council, and the Secretariat perform operational management within parameters determined by Council (which is consistent with international practice within RBOs and with good corporate governance principles).

The following institutional roles emerge from this analysis.

Institutional role for Council

Council should be responsible for strategic guidance and governance of ORASECOM, which includes:

- Fiduciary / governance responsibilities of oversight on the Secretariats performance and finances,
- Strategic guidance on activities and decisions that have impact on parties, particularly guiding the need for and scope of studies, and
- Review and endorsement of recommendations to Parties derived from these studies, as developed by the Task Teams.

This means Council should meet less often, possibly once a year (with the possibility for another special interim meeting, if required) led by senior level bureaucrats (at PS or DG level) with greater national perspective and decision making authority – this is in line with international practice for RBOs.

Institutional role for the Task Teams

 The key responsibilities of the Task Teams would be to:

- Guide relevant ORASECOM projects (as a Steering Committee), following the scope and direction provided by Council, and
- Discuss and formulate recommendations to Council, based on the outputs, conclusions and recommendations of the relevant project teams.

Task Teams would consist of relevant technical people from the Member States (usually from the Departments of Water) with a background in each Task Team's field of interest, and would meet 2 to 4 times per year, depending upon project requirements and related issues.

Institutional role of the Secretariat

The Secretariat can shift to the more operational focus implied by the above functions. This will require the development of the planned 4-person in-house capacity as a matter of priority. However, there is limited capacity to manage the intensive project load currently being implemented through funding by cooperating partners. The Secretariat capacity should therefore be supplemented by the contracted-in capacity related to cooperating partners' funded programmes of support. This means that external programmes of support should ensure that they have made provision for contracted or seconded staff. The roles of these staff vis-à-vis reporting to the Secretariat and Task teams must be clarified.

Project Management Responsibilities

From a procedural institutional perspective, the following project process would be relevant:

- Council identifies the need for a study / initiative, based on issues raised by existing projects and plans (through recommendations by a Task Team), requests from one or more of the Parties delegations, input from bilateral reporting, or monitoring coordinated by the Secretariat.
- Council defines the scope of the study and terms of reference, with support from the Secretariat and Task Teams.
- Secretariat mobilises resources for the study and commissions a team to do the work, gaining approval from the relevant Task Team.
- The project is managed by the Secretariat (or contracted / embedded support) and guided by the relevant Task Team as Steering Committee.
- The Secretariat would ensure that the project meets the requirements of ORASECOM, while the embedded support would provide for the day-to-day administrative management of the project according to the donor's specific requirements, as well as providing relevant expertise to supplement that in the Secretariat.
- Conclusions and recommendations from the study are reviewed and formulated by the relevant Task Team for briefing and presentation to Council.
- Council reviews and endorses recommendations and formulates advice to Parties, where relevant.

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1 Introduction

1.1 Background to the Study

An overarching EU funded project to support the capacity building of ORASECOM was put out to tender in mid 2007, and a consortium of WS Atkins, Pegasys and Water for Africa were awarded the tender in early 2008. The consultant Team Leader began work on the 1st of March 2008.

The project includes 42 months of input from a Consultant Team Leader, and 21 months of input from an Information, Communication and Training Specialist. The ICTS is primarily responsible for the awareness raising and capacity building components of the project.

In addition to this, the project makes provision for 25 months of input from Category I experts (greater than 15 years experience), and 10 months of Category II experts (greater than 10 years experience). These inputs will be used to deliver targeted assignments in the following six Result Areas.

- **Result area 1:** Basin management institutions and organisations strengthened;
- **Result area 2**: Capacity for Shared Water Courses Management in all riparian states enhanced;
- **Result area 3:** Contributions to a shared information system that promotes the development of a common understanding for decision-making;
- **Result area 4**: ORASECOM communication and awareness building processes enhanced;
- **Result area 5:** Contributions to the development of the Orange-Senqu River Basin Water Resources Master Plan;
- **Result area 6**: Water conservation and environmental strategies developed.

The assignment dealt with in this report contributes to Result Area 1, and forms part of:

Activity 1.1: Identify appropriate roles, responsibilities, mandates, and operational procedures for ORASECOM institutions.

This assignment follows the *Study into the scope of potential Operating Procedures and Guidelines for ORASECOM*, and used part of a 2 month Category I input to *Undertake an institutional analysis and develop operational procedures and guidelines for ORASECOM*, which will strengthen the functioning of the organisation. The Terms of Reference for this Assignment are available from the Team Leader at quibellg@dwaf.gov.za.

1.2 Scope and Objectives

The overall objective of this assignment is described as:

To undertake an institutional analysis and develop operational procedures and guidelines for the organisation

In order to achieve this, eight areas of work were envisaged, of which this report reflects the first two;

- A SWOT Analysis of ORASECOM substructures and functioning

- An Institutional Analysis of ORASECOM

- Procedures for Council

- Procedures and Terms of Reference for the Task Teams

- Procedures for the Secretariat

- Guidelines for the Parties

- Procedures for engaging the Bilateral arrangements

- Guidelines for engaging SADC

1.3   Approach for the Study

The analysis begins with an institutional review of international experience with transboundary water management, focusing on the reasons and issues driving cooperation and institutional development, but particularly from the perspective of ORASECOM.

This is followed by a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis for institutional and organisational dimensions of ORASECOM, based on the ORASECOM Agreement, the existing relationships with the bilateral arrangements, and the existing organisation budget and structure. This SWOT analysis determines what can viably be changed within the organisation given the current structures, budget and the resources of the Member States.

Ultimately, the institutional structure of the organisation must reflect and support its mandate as a technical advisory body for the Parties. Technical advice will be generated through technical studies, primarily (although not exclusively) through the completion of the Basin Wide Plan. This Institutional Analysis therefore engages the nature, content and role of the Basin Wide Plan and the way in which this influences the role that ORASECOM plays in water resources management via the Parties in the basin. Issues that are addressed include:

- The manner in which the Basin Wide Plan should be implemented through the Parties, involving recommendations to the Parties and alignment to national and catchment water resources strategies.

- The broad scope and level of detail of the Basin Wide Plan, together with the way in which the Parties should agree on the scope and content of the Basin Wide Plan.

- The way and role that the Basin Wide Plan can play in setting a framework for the bilateral arrangements, and the detail required of this framework.

- The degree to which ORASECOM should provide advice and guidance on the management of water resources quality and quantity concerns, even where these are not obviously transboundary in nature.

- The role that ORASECOM may play in recommending monitoring programmes which will be implemented by the Parties using their own resources, or whether the organisation will manage and implement its own basin monitoring programme.

- The purpose and nature of stakeholder participation processes managed by ORASECOM, or whether the ORASECOM Roadmap would be financed and implemented via the Parties.

- The role that ORASECOM may play in planning and coordinating emergency situations.

The final element of the Institutional Analysis interprets all of these considerations in terms of the institutional roles and responsibilities for the Council, the Task Teams and the Secretariat. This must also define the relationships between Council and the Parties and Bilateral Arrangements, recognising that many of the Commissioners also represent their Parties in the Bilateral Arrangements.

2 Institutional Considerations for River Basin Organisations

2.1   Institutional Models for River Basin Commissions

A review of transboundary water agreements and associated institutions internationally indicates six broad models for river basin organisations reflecting different needs and conditions in the basin and between riparian states:

Joint resolution of an issue of concern between countries

At its most basic, cooperation may be required between two (or three) countries on a specific water resources management issue at the border between the countries (such as water quality mitigation, flood control, water allocation or environmental flow releases). A permanent (or technical) committee is typically established to negotiate the terms of a bilateral (or trilateral) agreement between the Parties and once in place to facilitate cooperation and monitor compliance with the agreement. In some cases an honest broker is required to facilitate the engagement, particularly where there is animosity, asymmetry in capacity, or little trust between the countries.

⇨ Examples of these types of agreements may be found throughout South America, Africa and Asia, with the Indus Treaty being a specific example of a water allocation treaty of this type and La Plata Agreement between Uruguay and Argentina in South America around water quality (as well as navigation).

▪ The Botswana/South Africa bilateral arrangement reflects this

Joint planning, development and operation of water infrastructure

Following issue-based cooperation or recognition of the need for joint water resources infrastructure, an agreement (between two or more parties) may be developed around an infrastructure project. Again, this is usually negotiated by a technical planning committee, leading to the signing of an agreement that specifies both the Parties responsibilities to the project and the institutional arrangements (typically an authority) to develop, finance and/or operate the infrastructure.   These authorities are typically mandated with management functions, unlike many other transboundary basin institutions. While these negotiations are often conducted between parties there may be a role for facilitator and technical advisor to the process (often a development bank), particularly where there is asymmetry in capacity between the parties.

⇨ Examples of these types of agreements may be found in South America and Africa, with Senegal (OMVS) and Zambezi River Authority providing specific examples of project-initiated treaties in Africa.

▪ The Lesotho/South Africa bilateral arrangement reflects this

Basin level cooperation between Parties around stressed water resources

As the water stress (allocation, flooding or quality) in a transboundary water course with multiple parties increases, there is an increasing imperative to cooperate at the basin level and optimise the protection, development and utilisation of the basin. Fostering this type of multilateral cooperation is a long slow process requiring the sharing of information, the building of trust between parties and the development of confidence in the process. This is typically a long-term process that requires simultaneous national level capacity building (to level the playing field), discussion of substantive issues and development of institutional arrangements for cooperation at the basin level. This process is typically much more complex and difficult than the issue and infrastructure processes.

⇨ Examples of these types of agreements may be found primarily in Africa and to a lesser extent in Asia and the Middle East, with the Nile Basin Initiative and Jordan River Agreement being cases in point.

▪ The ORASECOM Agreement is at least in part motivated by the intention to initiate this process

Regional political and economic integration imperatives

On the other end of the spectrum are those transboundary water resources associated with regions that have a political or economic imperative to cooperate in the interests of regional integration under the auspices of a regional economic community (and even regional transboundary legislation, such as the SADC Protocol and UN ECE). The driver in these situations is for cooperation and integration (often by the regional secretariat), with the concept of water sharing potentially leading to benefit sharing. These processes are built around a multilateral agreement between the basin states, which often focuses on the basin organisation with a mandate to advise the parties on water resources related issues. In many cases though, the basin institution takes on a permanent secretariat and becomes almost more important than the agreement or imperatives to cooperate. The regional community typically plays the facilitating role in promoting and supporting transboundary cooperation and institutional development.

⇨ Examples of these types of agreements may be found primarily in Southern Africa (SADC) and Europe (EU), with energy discussions in South Asia (Ganges)

▪ The Revised SADC Protocol on Shared Watercourses reflects the intention to create these kinds of RBOs (including ORASECOM)

Trans-basinal benefit sharing

There is an emerging recognition of the opportunities for regional power, food and water pools to support national development imperatives. These will often involve multiple basins and require a degree of regional trans-basinal cooperation. While cooperation around

regional energy pools has evolved, the trans-basinal water resources engagement and response is at a fledgling stage. This may involve multi-lateral (multi-basin) initiatives, multi-institutional cooperation at a basin level or potentially multi-basin institutions involving the relevant countries. However, there are significant challenges to this approach, particularly in the absence of a formalised regional community.

⇨ There are currently no examples of this pathway, but opportunities definitely exist in the Southern African, West African, South Asian and South-east Asian and Latin American situations.

▪ While this is currently not relevant for ORASECOM, developments in the Southern African energy pool may motivate trans-basinal perspectives on energy producing basins in Southern Africa, while the inter-connected nature of the Orange-Senqu basin with the Inkomati and Limpopo basins, which involve other SADC Member States, may in future suggest trans-basinal perspectives on water.

Basin regulation or management

At the final end of the spectrum are those basin organisations established by countries with the intent to assign management or regulatory functions to a multi-lateral institution. This willingness for countries to give up their sovereignty requires significant trust and a historically stable legal, economic and political environment. The driver in these situations is for consistency and independence in the application of clearly outlined strategic objectives and rules to all parties in the basin. These processes tend to evolve through cooperation to a multilateral agreement between the basin states, with authority given to the organisation to control or regulate water use or waste discharge. It must be emphasised that these types of basin organisations emerge under very specific circumstances and after extended institutional evolution, in which the regional community and identify plays an important role.

⇨ Examples of these types of agreements may be found primarily Europe and North America, where the conditions exist for surrender of sovereignty to a joint management body, with Danube and Rhine Commissions in Europe and the International Joint Commission between United States and Canada on the Great Lakes.

▪ While this is currently not envisaged for ORASECOM, increasing regional political integration and economic development may provide the environment for basin management-regulation at some time in the future

It is important to recognise firstly, that form follows function (together with the need and purpose for cooperation) in the development of the institutional arrangements within a transboundary river basin. Secondly, these models are not necessarily mutually exclusive (and do not reflect an implicit evolutionary pathway) and there may be multiple

transboundary river basin organisations within a specific basin (as seen in the Orange Basin), with the institutional relationships between the organisations requiring clarity.

2.2 Considerations on these Models

A number of cross cutting themes can be identified through these broad models, which have a direct bearing on the most appropriate institutional arrangements to support cooperation within a basin and possible evolution between models.

Purpose

As indicated above, the nature of a transboundary river basin organisation should reflect the purpose (and need for cooperation). This has various dimensions, related to a focus on:

- o Infrastructure development or Resource management

- o Hydrological water management or Economic development (or energy) integration

- o Sovereign national development security or basin environmental security

Mandate

The legal mandate assigned to the transboundary organisation by the Parties to an agreement dictates the objectives and functions that the organisation may legitimately engage in, distinguishing between

- o Functional role:

  - • Information sharing (to develop a common understanding)

  - • Planning (to provide recommendations to the Parties)

  - • Management (to take action in the basin)

- o Governance role with respect to the parties:

  - • Cooperating Forum, where parties share perspectives and interests

  - • Independent Advice, where the organisation develops consensus recommendations

  - • Decision making body, where the organisation takes independent decisions

Organisation

The organisational development should reflect the purpose and mandate of the organisation, as well as the available resources of the Parties or other financiers, considering the following aspects:

o Constitution as a:

- A committee between Parties

- An organisation with a secretariat

- An organisation with significant staff complement

o Council procedures:

- Collaborative engagement between parties based on consensus

- Formalised procedures

Stakeholder engagement

The engagement of external stakeholders also depends upon the nature of the organisation, with increasing requirements for direct engagement with greater independence, distinguishing between:

i. Engagement at a national level through Parties' consultative mechanisms

ii. Engagement at a basin level through the organisation's consultative mechanisms

A number of important lessons may be identified from the application of these models in international contexts:

- Transboundary basin management is inherently political, with water resources management being firmly embedded in political, social, economic and ecological decision making at a national and transboundary scale.

- There is no one-size-fits-all approach to transboundary management, and the agreements and institutions should be locally relevant, based on national, basin and regional priorities.

- It is important to take a future benefit and risk perspective in the institutional development process, considering developmental stresses and climate change pressures, in order that the arrangements are able to cope with change as it occurs.

- A pragmatic adherence to IWRM is appropriate in prioritise key transboundary water management issues and focus attention on these, rather than attempting to engage everything at a basin level.

- Alignment between national, basin and regional institutional arrangements (including policy, legislation and strategy) is fundamental to cooperation, as it the requirement to "levelling of the playing field" between Parties in terms of capacity and information.

- Institutional and legal arrangements are only the vehicle to support cooperation (to give effect to what the Parties want or require for the Basin), and should be moulded to this end, rather than being seen as the end in itself.

- Clear and proactive dispute resolution mechanisms support effective cooperation.

2.3   Institutional Interpretation for ORASECOM

The ORASECOM Agreement [Article 4] outlines the objective of the Council: "*to serve as a technical advisor to the Parties relating to the development, utilisation and conservation of the water resources in the River System*" and "*other functions pertaining to the development and utilisation of the water resources as the Parties may agree to assign*". However, it is not clear what the scope of that technical advice may be and no further assignments have yet been made.

The role and purpose of ORASECOM in the light of the existing bilateral arrangements seems to be to provide a basin wide perspective. This may be limited to building trust and a common understanding of the basin through studies (e.g. to commonly understand the amount of water available for development), as well as to establish common basin-wide monitoring programmes for information sharing. Together these studies provide the basis for separate negotiation and agreement among the Parties.

However, from another perspective, the mandate provided in Article 5.2 of the Agreement certainly suggests that the intention was for the organisation to play a stronger role in setting a framework for the management of the basin as a whole. It may be suggested that ORASECOM has a mandate to recommend a framework for the management of the River System in terms of the following provisions:

- The reasonable and equitable utilisation of the water resources of the River System (Art. 5.2.2).
- Studies conducted separately or *jointly* with regard to the development of the water resources of the River System (Art. 5.2.3).
- Measures with regard to the settlement of a dispute between two or more Parties (Art. 5.2.9).

Together these require engagement between the Delegations beyond purely technical water resources considerations, to include social, economic, legal and political dimensions of the relationships between the four countries, within the context of regional economic and foreign policy perspectives. Care then needs to be exercised in giving effect to these provisions and their relationship with the proposed basin-wide plan.

A further dimension in this institutional picture relates to the obligations of the Parties [Article 7], where the parties are bound to "give their full cooperation and support to the implementation of this Agreement as well as the recommendations of the Council". They are further required to "utilise the water resources of the River System in an equitable and reasonable manner with a view to attaining optimal and sustainable utilisation thereof" and "in utilising the water resources of the River System in their territories, to take all appropriate measures to prevent the causing of significant harm to any other party".

ORASECOM is already functioning effectively as an organisation to build cooperation, trust and a common understanding, while the bilateral arrangements engage specific issues and often water sharing arrangements. However, its further evolution (and hence the associated institutional structure and arrangements) depends on the extent to which the organisation takes on the role of building recommendations for more detailed (bilateral) arrangements from a basin wide framework for water management. The development of the basin wide plan in this context and the role ORASECOM plays in negotiating this plan, is critical to the organisations institutional structure.

From a regional perspective, the Parties and ORASECOM exist within the framework of SADC and the Protocol on Shared Water Courses. While international water law provides a framework for interpreting issue such as reasonable and equitable and no significant (or non-trivial in the revised SADC Protocol) harm, the spirit of SADC is to interpret these cooperatively, rather than legalistically. This implies adherence to the strong SADC cooperation and integration imperatives, namely:

- To cooperate *in good faith* for mutual benefit,
- So that each nation can realise its needs for water, while recognising the different dependencies for water from the Basin,
- In an optimal manner, which jointly protects the environment, and
- In so doing to realise the core objectives of SADC around regional integration and poverty alleviation.

From the above discussion, it is clear that ORASECOM is not an infrastructure authority and that in the short term it is unlikely to operate as a regulatory/management body at a basin level or even in terms of the possible regionalisation of energy. ORASECOM is clearly a body for basin level cooperation, within the context of SADC integration. However, the scope and mechanisms to agree around the principles and frameworks for utilisation, development and protection of the water resources of the basin require further clarity, as does the role of ORASECOM in directly or indirectly facilitating this. This issue is explored further in the remainder of this report.

3   SWOT Analysis of ORASECOM

Any institutional arrangements for ORASECOM must be framed by what is viable given the particular constraints prevalent in the organisation and the Member States. Conversely, proposed changes to the organisational structure and functioning should play towards the strengths and opportunities provided by the national, regional and global institutional frameworks governing and supporting the functioning of the organisation.

3.1   Strengths and Weaknesses of the Organisation

The focus here is the institutional strengths and weaknesses of ORASECOM, related to its internal mandate and functioning (i.e. within its control).

Strengths

o   ORASECOM has an established Secretariat, and an appointed Executive Secretary and Water Resources Management specialist. Further capacity is being built through the appointment of a Financial Officer, while provision has been made for a further 2 posts.

o   The Secretariat is relatively small and manageable, and importantly is funded by contributions from the Parties, and has diplomatic status which enables its independence from external influence.

o   This core team is/will be supported by embedded Technical Assistance from various cooperating partner programmes (EU, GEF/UNDP & GTZ), at least over the next few (3) years.

o   Cooperating partners have committed significant financial support to ORASECOM over the next few years.

o   The ORASECOM agreement enables the Council significant flexibility and scope by allowing Council to 'take all measures required to make recommendations' and allowing Council to develop its own rules of procedure and to establish appropriate sub-structures.

o   The Parties may also assign additional functions to Council.

Weaknesses

o   The ORASECOM Agreement provides significant latitude in its interpretation of the purpose and structure of ORASECOM, which has resulted in differing interpretations and perspectives between and within Parties' delegations. Specifically the Agreement:

• does not recognise the organisation (as distinct from Council), while

• the distinction between Parties, and Delegations is not clear.

o The extent to which the organisation should deal with non-transboundary problems is not commonly understood.

o ORASECOM is in a transitional period from having been a "technical committee" focussed on developing a common technical understanding and trust to being a "river basin organisation" with a permanent Secretariat, which starts providing technical advice on a basin wide perspective. This has contributed to:

   • varying understanding of the organisational paradigm and fiduciary responsibilities of the Council, as opposed to its advisory mandate, and its representation of the position of the Parties through the Delegations ;

   • lack of clarity in terms of the role descriptions of its various structural elements (particularly the Secretariat and Task Teams);

   • limited formalised operating procedures for the organisation

o The organisation has not yet established a clear independent brand and identity within the basin, while the delays of the Secretariat in obtaining dedicated office space with its own location has further hampered this process, having been located in DWAF.

o There is significant turnover in the representation of some delegations, which poses challenges to the building of continuity and institutional memory for the organisation.

o People are appointed to Council (Commissioners) and Task Teams by the Member States, while having other existing responsibilities, often with inadequate resources to effectively contribute to the organisation, which continues to constrain ORASECOM's functioning.

o There is limited possibility to increase the Parties' contributions to ORASECOM, so the size of the Secretariat is constrained (to its existing proposed structure which limits the organisation's ability to manage the range of proposed projects and its capacity to absorb additional support.

3.2 Threats and Opportunities of the Environment

The focus here relates to the opportunities presented and threats imposed by external institutional environment.

Threats

o The role and relationship of the organisation vis-à-vis the existing bilateral arrangements are not clear, particularly in the light of ORASECOM's basin wide perspective.

o The water resources of the Orange-Senqu are significantly developed (investment) and stressed from a quantity and quality perspective, and these will be exacerbated with growth, demographics and climate change, which makes the future uncertain and potentially constrains future possibilities directly from the basin itself.

o The four Parties may dedicate greater resources and attention to the bilaterals, rather than ORASECOM, due to the focus of the bilaterals on operational and implementation planning, the ability to represent national (rather then basin) interests, the historical experience with managing the basin through bilaterals, and the difficulty of negotiating action at a multilateral scale.

o The Parties have considerable differences in available resources, in terms of human, financial and infrastructural capacity, and in access to information.

o The current abundance of financial resources through cooperating partners is unlikely to continue indefinitely (probably beyond 5 years).

Opportunities

o The Revised SADC Protocol on Shared Watercourses provides a sound backdrop in substantive and procedural international water law. This together with the ORASECOM Agreement already provides a framework to address transboundary water management.

o The drive of SADC towards greater regional integration provides a strategic vision for the organisation, and provides a possible framework for benefit sharing, which may be supported by the (possibly) existing SACU arrangements.

o ORASECOM has established itself as a credible transboundary institution with a profile in the international water community.

o The potential separation of Council and Parties allows the organisation to think jointly and creatively about possibilities for managing the shared water resources of the basin.

4 ORASECOM and the Basin Planning Process

4.1 Rationale for focusing Institutional Analysis of the Planning Process

As has been outlined above, ORASECOM has an advisory mandate. In order to fulfil this mandate, ORASECOM is primarily involved in assessment and planning to make recommendations to the Parties. Further, Council has endorsed the concept of the development of a "basin-wide plan" to be developed (by 2012), and there is an assumption that ORASECOM should also play a monitoring and possibly facilitating role with respect to the implementation of the Plan. While the need for ORASECOM to perform these functions has been broadly agreed, it is apparent that their specific interpretation has not yet been clearly elaborated.

The institutional structure of the organisation must support its mandate and functions as a technical advisor to the Parties. Section 2.4 has already discussed the potential scope and form of this technical advice. Within that framework, technical advice may be generated through technical studies focussing on a specific issue, for example the rehabilitation of wetlands in the highlands of Lesotho, or proposals for an Aquatic Ecosystem Health monitoring programme. These studies, and the advice generated from these studies generally benefit all the Member States (or perhaps do not compromise any of the Member States).   However, some technical advice will be generated through the development of the Basin Wide Plan. In this respect some element of negotiation may be necessary to agree on likely future scenarios for the basin.

Before continuing with the institutional assessment, which must be built on the functions and role of the organisation, it is necessary therefore to clarify the mandate and responsibility of ORASECOM within this framework. Given that they all represent elements of internationally accepted basin planning processes, it is illustrative to explore the role of ORASECOM in a typical basin planning. This Chapter presents the international experience in River Basin Planning, places this in the specific ORASECOM context, and then proposes the institutional implications for ORASECOM.

4.2 Accepted Practice in Basin Planning

A range of guides and handbooks have been developed for basin planning, many specifically focused on planning in international basins and by river basin organisations (GWP, 2009, UNESCO, 2009; CAPNET, 2007; GEF, 2000). The most relevant and recent guides have a number of similarities and include most of the following stages.

❑ *Initiation and identification of objectives (vision)*: involving clarity on the purpose, scope and roles of the basin plan to guide its formulation.

❑ *Situation assessment*: developing a common understanding of the basin and the important water related issues, involving various hydrological and economic studies.

❑ *Future trends and scenarios*: identifying likely pathways for future water (and climate), social and economic development in the basin.

❑ *Management options and tradeoffs*: formulating and evaluating possible response scenarios to the current situation and possible futures.

❑ *Agreed strategy*: developing (and agreeing) a suite of coherent, appropriate and workable approaches, milestones and responsibilities from these options.

❑ *Implementation plan*: developing detailed action plans at different scales and around critical themes to give effect to the strategy.

❑ *Monitoring*: ongoing monitoring and review of the strategy and implementation plan to evaluate implementation and impact, and refine-adapt the strategy.

From this international practice on basin planning, a number of key considerations have emerged, all of which are relevant to the institutional arrangements for ORASECOM:

• *Cyclical nature* of basin planning, with monitoring and review feeding back into assessment and strategy development, requiring an ongoing dialogue between Parties after the development of the Basin Plan.

• Geographic and thematic *nesting* of implementation plans, enabling high-level principles, objectives and frameworks at the basin level supported by detailed action plans at the bilateral, national and/or catchment level

• Engage *uncertainty* through scenarios which represent possible water, social and economic futures that will drive management requirements, based on differing assumptions.

• Clear *purpose and scope* for the basin-wide plan, including strategic alignment and interface with regional and national policy and strategy.

• *Institutional clarity* required about roles and responsibilities of key role-players about key stages in the development and implementation of the plan/s.

• *Stakeholder engagement* reflecting needs for gaining information and developing buy-in of stakeholders to the plan, considering the political and capacity context.

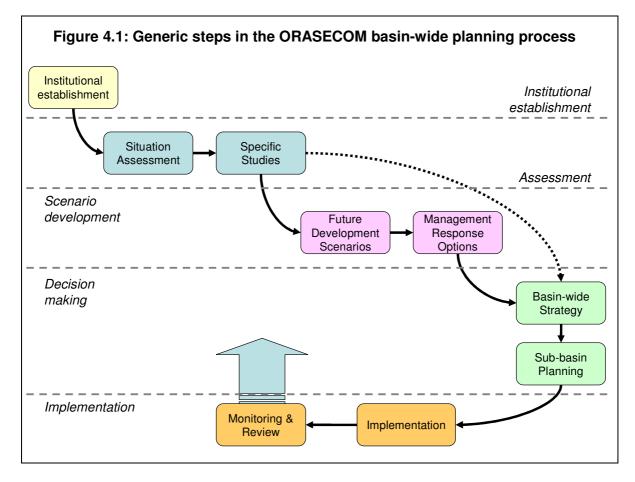As will be seen below, each of these considerations influences the nature of the process and institutional arrangements required for basin planning.

4.3 Institutional Interpretation of the ORASECOM Basin Wide Planning Process

The stages of the basin planning process have been interpreted against the proposed development of a basin-wide plan by ORASECOM (Figure 4.1). This includes the institutional

establishment phase that ORASECOM has undergone in the past few years, and then distinguishes the:

- Assessment phase (building a common understanding),

- Scenario development phase (identifying possible futures and responses),

- Decision making phase (negotiating/agreeing strategies and plans), and

- Implementation phase (operationalising and monitoring the plans).

Figure 4.1: Generic steps in the ORASECOM basin-wide planning process

The following discussion takes each of these phases in turn and evaluates them through an institutional lens.

Institutional Establishment Phase:

ORASECOM seems to have been established as a vehicle for technical experts from the four Parties to jointly engage basin water resources issues of interest, within the context of national imperatives, basin sustainability and SADC regional integration. However, the requirement to advise Parties on the outcomes of these discussions also implies a certain level of debate and negotiation on a technical basis to reach consensus. Historically, this has been to build common understanding and agreement around water resources

information and analysis techniques, as well as issues of concern. The functioning of Council, Task Teams and the Secretariat has all evolved against this backdrop.

However, with the strengthening of the organisation through its Secretariat and the intent to engage basin water management issues through the basin-wide plan, the scope of these discussions may need to expand to include options with differing political, social and economic implications. This potentially requires a different organisational functioning, or at least the recognition of other mechanisms that inform effective debate and negotiation between the Parties – these issues are engaged in the next Chapter. The Agreement gives ORASECOM a relatively broad scope to engage issues, which is a measure of the commitment of the Parties to cooperate in good faith. Thus, while the institutional establishment phase is nearing its end, there will be an ongoing institutional development process to respond to the evolving requirements of the Parties.

Assessment Phase:

This phase focuses on *agreement* around a common understanding of quantity, quality and environmental problems in the basin. It is underpinned by the provisions in international water law for data and information sharing, which the ORASECOM Agreement takes it a bit further with provisions for a common monitoring programme. The Situation Assessment and Transboundary Diagnostic Analysis, together with the myriad of studies that have been jointly conducted in the basin over the past decade, all support the development of this common understanding. ORASECOM has evolved and is currently suited institutionally to playing this role, while the relationship with the bilaterals is one of information sharing. Most key development and utilisation decisions are made through the bilaterals in the absence of a basin level framework. An important dimension to this process is agreement on the extent of the basin and what should be considered for joint assessment through ORASECOM, as opposed to nationally or through bilaterals.

Scenario Development Phase:

The first step of developing a basin-wide plan is typically the development of scenarios and possible response options. This phase therefore focuses on *agreement* on what the future of the basin may look like with respect to demands, availability (at what assurance), quality and environmental issues (considering demographic, economic and climatic changes), and then *agreement* on various management options (suites of responses) to address the opportunities and challenges posed by these different futures. While these scenarios must implicitly engage projected development futures in each of the territories and in the basin as a whole, this is similar to the analysis that is typically performed in national and catchment level water resources planning. This requires engagement of national development and sector plans and linkage with other national government departments beyond water, in order to ensure a representative reflection of possible basin futures.

Similarly, the identification of potential management responses/options under each of these futures needs to engage the social, economic and ecological implications of each and

their consistency with national and sectoral development plans. The critical issue is that the identified options need to be representative of the range of possibilities. Importantly, it is not necessary to first agree on the detailed interpretation of *reasonable and equitable* or *significant harm* in order to identify these scenarios, but rather for each country to evaluate whether the options identified for each future meet their reasonable expectations for human needs (vital and economic), environmental protection and avoiding causing them significant harm. However, it is appropriate during this process to agree the way in which these water law principles should be dealt, particularly as the basin becomes more stressed with increasing development pressures and climate change constraints. It should also engage the issue of which elements of water resources management should be dealt with at a basin level (eg. infrastructure, allocation, environmental flows, water quality, etc), and the flexibility in implementation that is appropriate at a bilateral, national or catchment level (i.e. reflecting the nesting philosophy of basin planning). Similarly, the extent to which non-transboundary problems will be addressed needs to be clarified.

Again, ORASECOM is organisationally suited to taking on this responsibility, albeit with a commitment from delegations to consult broadly within their respective governments, in order to ensure alignment between these scenarios and options and broader government priorities.

Decision Making Phase:
In a transboundary context, decision making must be done through negotiation and agreement between the Parties, considering the development scenarios and management options. In the context of an advisory body, this process will lead to a single set of recommendations based on an agreed plan, rather than the presentation of several viable options for negotiation.

It is important to distinguish basin-level planning decisions and frameworks related to the utilisation, development and protection between all Parties from decisions related to local, catchment, national and even bilateral initiatives (preferably under the basin framework). The former typically have trans-national and regional political, economic & trade, social and ecological implications beyond the water sector and are ultimately agreements between countries. As such they should be negotiated between countries (i.e. Parties represented by more than the Water Ministries), but may be facilitated by ORASECOM in terms of its mandate. The framework strategy (basin-wide plan) would then be given effect through national and sub-national plans[1], or in some cases further detailed negotiation at a bilateral level on specific projects. The basin-level framework will need to engage an understanding of the reasonable and equitable utilisation and development of the basin, in the context of agreed levels of environmental protection.

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[1] This nesting approach is reflected in the GEF Strategic Action Programme supported by National Action Plans.

ORASECOM is not currently suited to making these decisions on behalf of the parties, as this needs to be more representative of other government departments from each of the Parties. However, it may be possible for the delegations to find common ground in the recommendation of a particular management response (strategy) that best achieves the broader national and regional imperatives. Given the scope of ORASECOM's ongoing mandate, it does not seem warranted to expand the representation on Council, but rather develop a mechanism by which the Parties may negotiate and agree on the sharing of water (i.e. the basin-level framework), but supported by ORASECOM.

Implementation Phase:

ORASECOM currently does not have a mandate around implementation and this would be done though national government departments, sub-national agencies and bilateral bodies (including Basin Authorities such as LHDA). However, there may be scope for ORASECOM to access and channel funding to support implementation initiatives, whether these occur within countries or across borders. Similarly, ORASECOM may facilitate implementation by helping build the human resources capacity in the Member States. On the other hand, ORASECOM has a direct mandate for joint monitoring of the basin, as well as the implementation of the Agreement and Protocol (which is obliged to report to SADC). This may entail monitoring:

- o the implementation of actions (with timeframes and responsibilities) agreed as part of the basin-wide plan;

- o agreed elements of the streamflow, quality and health of the water resources in the basin (possibly through national monitoring programmes); and/or

- o achievement of broader basin objectives of the strategy, built on national and regional social, economic and ecological imperatives.

This can be done through the implementation of a joint monitoring programme at a basin level, under the coordination of ORASECOM (defined as part of the basin-wide plan).

5 Implications for ORASECOM Institutional Arrangements

5.1 Introduction and Emerging Issues

The preceding discussion has highlighted some of the institutional considerations associated with the potentially emerging role of ORASECOM in the development of a basin-wide plan. This Chapter brings it together with the international experience, the SWOT analysis and original 2005 Organisational Recommendations for the Establishment of the ORASECOM Secretariat, as well as emerging issues raised through consultation with each Party' delegation, to make institutional recommendations on the organisational and institutional strengthening of ORASECOM in a changing environment.

Through the institutional analysis and discussions with the delegations, a number of institutional issues have emerged that require engagement and possibly adjustment to the current organisational and/or institutional arrangements around ORASECOM. These primarily relate to the purpose of the basin-wide plan, the evolving nature/role of ORASECOM, the manner of engagement by the Parties with the Agreement, the role of bilaterals, engagement with SADC, and the responsibilities of the elements of ORASECOM. Each of these is dealt with in turn, by outlining the issues and different perspectives on it (where relevant) and then providing an institutional recommendation for the strengthening of ORASECOM.

5.2 Purpose of the Basin-wide Plan

It is clear that the development of the Basin-wide Plan will be the focus of ORASECOM's activities over the next few years and that the way in which this plan development is carried out may have a fundamental impact for the role and evolution of ORASECOM (see Section 4.3). The two critical issues are:

- The degree to which the basin-wide plan provides an overarching framework for cooperation around water resources management at a basin level, requiring alignment and consistency with bilateral and national level planning.

- The manner in which nesting of plans is adopted, namely the distinction between the basin-wide plan as a strategy outlining basin-wide objectives and principles with detailed plans providing the detail at a bilateral, national and catchment level.

An emerging perspective seems to be that the ***Basin-wide plan should provide the overarching framework for the basin***, but that this should be at the level of strategy, principle and objectives (initially in the first plan) focusing on the transboundary issues identified through the Situation Assessment. ***Detailed implementation planning would then be carried out at a bilateral or national level***, depending upon the nature of the issue.

The two important implications of this perspective are that:

i. Council must agree and set the parameters of the basin-wide plan (and associated principles), its relationship with bilateral and national planning, and the process of developing the plan before work starts on the plan, and

ii. Council should determine at a principle level whether bilateral and/or catchment planning would need to be refined to be consistent with the basin-wide plan.

5.3   Evolution and Role of ORASECOM

The role of ORASECOM has evolved over the past few years from a committee of Parties to an organisation representing Parties with a permanent Secretariat, and this evolution is likely to continue with the development of the basin-wide plan leading to the coordination, monitoring and support to its ongoing implementation over the next few years. Following the perspectives on the basin-wide planning process, an emerging perspective on seems to be that **ORASECOM should facilitate this process of developing the Basin-wide Plan** (including the identification of future development and response scenarios), but that the final selection and agreement of the basin-wide plan should be through a multi-lateral session between Parties' representatives (beyond the delegations and water sector) arranged and facilitated by ORASECOM (as implied in Section 4.3).

Once the plan has been developed (in 2012), **ORASECOM would be responsible for coordinating and monitoring the implementation of the plan** through bilateral, national and catchment level planning, as well as identifying areas/issues that require review or refinement of the basin-wide plan as conditions change or objectives are not adequately achieved. This raises the possible need for a Monitoring & Information Task Team.

The implications of this approach are:

iv. Delegations should obtain endorsement of the process from their Principles, particularly around the negotiation of the final plan/strategy, and

v. Delegations are responsible for representing their national planning perspectives (including integrated and sector plans) at both Council and Task Team level, and conversely identifying when emerging conclusions or recommendations may have a significant impact on these plans.

vi. Council should explore the need for a Monitoring & Information Task Team as this role gains importance over the next couple of years.

5.4   Relationship with the Bilaterals

Within this emerging picture, bilaterals remain an important part of the institutional arrangements within the basin, but specifically in terms of developing detailed plans at a project or initiative level that are consistent with the basin-wide plan (following the philosophy outlined in Section 4.3). There seems to be an emerging perspective (albeit not unanimously shared) that **bilaterals should be sub-ordinate to ORASECOM** and therefore

align with the basin objectives and principles agreed through the basin–wide planning process (which is broadly indicated by the international experience presented in Chapter 2).

The implications of this interpretation are:

i.   Agreement by the Parties in Council of the sub-ordinate nature of bilaterals, and

ii. Formalisation and improvement of information sharing between processes and decisions taken within bilaterals and other Parties through ORASECOM (including clarity on what constitutes relevant information).

5.5 Role and Engagement of SADC

SADC has an obligation to support and monitor the implementation of the Protocol on Shared Watercourses, including agreements around shared water course institutions such as ORASECOM. This implies two areas of engagement, namely reporting by ORASECOM to SADC in terms of requirements under the Protocol, and possible facilitation in resolution of disputes between Parties in the unlikely situation where these cannot be resolved within ORASECOM (based on the review in Chapter 2).

The implications of this are:

i.   Clarity on the reporting requirements of ORASECOM (Council and Secretariat) to SADC in terms of their obligations under the SADC Protocol.

5.6 Engagement of the Parties

With the role of ORASECOM evolving from one of reviewing technical studies to facilitating basin-wide cooperation around the management of water resources, the engagement of the Parties needs to shift from technical review for advising on the development of a common understanding to joint collaboration in advising the Parties through the development of basin-level scenarios. There seem to be two seemingly contradictory perspectives prevalent amongst the delegates (identified through the interviews and SWOT analysis); on the one hand that ORASECOM provides a vehicle for Parties to represent their national interests in developing joint positions, and on the other hand that ORASECOM is a vehicle to adopt a common basin-level perspective / interest (considering national interests) in advising Parties. In either case, it is critical that delegations are informed about their broader national interests, particularly as it affects or relies on water resources associated with the Orange-Senqu River basin.

A second related issue involves the engagement of Parties outside of Council, and particularly through ***Meetings of Ministers to provide strategic direction*** and endorse positions that require agreement between the Parties (at a level higher than Council). The negotiation and agreement about the basin-wide plan may represent such an issue. Such a meeting may be held every 12 to 24 months, facilitated and supported by ORASECOM.

The implications of these are:

i. Council needs to clarify and agree on the *modus operandi* of Council and Task Teams and the implications for Parties' delegations at Council and Task Teams,

ii. Delegations need to be prepared to articulate broad national interests in relevant discussions and engage their Principals when an emerging basin-wide perspectives may not align with national interests, and

iii. Parties should agree to annual or biannual Ministers Meetings be formally arranged (through recommendation by Council to the Parties).

5.7   Internal ORASECOM Arrangements

As ORASECOM's role evolves, so must the internal organisational responsibilities and relationships between the Council, Task Teams and Secretariat. Similarly the governance, procedures and systems of the organisation need to be formalised to reflect these evolving requirements (see the SWOT analysis for focus on organisation requirements). At a macro level, an emerging perspective is that Council should become more strategic, the Task Teams focus on technical guidance to project under instruction from Council, and the Secretariat perform operational management within parameters determined by Council (which is consistent with international practice presented in Chapter 2 and with good corporate governance principles). This implies the following for each of these structures.

Council

Council should be responsible for strategic guidance and governance of ORASECOM, which includes:

• Fiduciary / governance responsibilities of oversight on the Secretariats performance and finances,

• Strategic guidance on activities and decisions that have impact on parties, particularly guiding the need for and scope of studies, and

• Review and endorsement of recommendations to Parties derived from these studies, as developed by the Task Teams.

This implies that Council considers Task Team recommendations on strategic and political grounds, but not revisit the technical assessments leading to the recommendations (except where there is insufficient information to make a decision. It also implies that Council delegates are adequately briefed by the Task Team representatives and there is clear communication between a Party's delegates to the various ORASECOM structures.

Taking this approach to its logical conclusion, Council should meet less often, possibly once a year (with the possibility for another special interim meeting, if required) led by senior

level bureaucrats (at PS or DG level) with greater national perspective and decision making authority – this is in line with international practice for river basin organisations (Chapter 2) and the proposed-emerging strategic-governance and accounting authority role of Council relative to the more technical Task Teams.

The implications of this are:

i. Engagement of Council around the possibility of refocusing the structure, arrangements, procedures and possible representation of Parties on Council.

ii. Development of procedures guiding Council functioning and governance.

Task Teams

Various Task Teams may be established to engage specific issues and/or guide projects as instructed by Council, including the Technical Task Team, Legal Task Team and Communications Task Team. The role of these Task Teams has become less clear with the evolution of ORASECOM over the past couple of years (see the SWOT analysis in Chapter 3). The key responsibilities of the Task Teams would be to:

• Guide relevant ORASECOM projects (as a Steering Committee), following the scope and direction provided by Council, and

• Discuss and formulate recommendations to Council, based on the outputs, conclusions and recommendations of the relevant project teams.

Task Teams would consist of relevant technical bureaucrats from each of the Parties' Departments of Water with background in each Task Team's field of interest, and would meet 2 to 4 times per year, depending upon project requirements and related issues.

The implications of this are:

i. Clear terms of reference are needed for Task Teams roles with respect to Council and the Secretariat, particularly related to the management of projects.

Secretariat

In the planning for the ORASECOM Secretariat (workshop of 29th and 30th July 2004), it was agreed that the core functions of the proposed ORASECOM Secretariat would be:

• *Coordination of all ORASECOM's activities*

• *Facilitation of the implementation of all ORASECOM decisions*

• *Being a repository of ORASECOM basin related information*

• *Serving as the ORASECOM focal point especially for all cooperating partners wishing to work with ORASECOM*

- *Carrying out of ORASECOM's "secretarial" functions e.g. organising meetings, document production and distribution, etc*

- *Communication and promotion on behalf of ORASECOM*

- *Programme/Project management including the critical screening function*

- *Resource mobilisation*

With the imminent completion of the organisational establishment phase, the Secretariat can shift to the more operational focus implied by the above functions. This will require the development of the planned 4-person in-house capacity to perform the core ongoing functions of ORASECOM.

However, as outlined in the SWOT analysis, there is limited capacity to manage the intensive project load currently being implemented through funding by cooperating partners, with limited likelihood of additional resources being made available by the parties. However, the core ORASECOM capacity is expanded by the contracted-in capacity related to cooperating partners' funded programmes of support (as currently envisaged through the EU, FGEF, GTZ and UNDP programmes). Rather than scale up the ORASECOM core staff (with the risks this entails), these programmes should be obliged to second and/or contract staff to support the interim project management and related requirements.

The implications of this are:

i. Clarifying operational procedures for ORASECOM Secretariat to perform its envisaged functions.

ii. External programmes of support require contracted or seconded staff to take on the additional project management and technical advisory burden.

Project Management Responsibilities

From a procedural perspective, the following project process would be relevant:

- Council identifies the need for a study / initiative, based on issues raised by existing projects and plans (through recommendations by a Task Team), requests from one or more of the Parties delegations, input from bilateral reporting, or monitoring coordinated by the Secretariat.

- Council defines the scope of the study and terms of reference, with support from the Secretariat and Task Teams.

- Secretariat mobilises resources for the study and commissions a team to do the work, gaining approval from the relevant Task Team.

- The project is managed by the Secretariat (or contracted / embedded support) and guided by the relevant Task Team as Steering Committee. Typically the Secretariat

would ensure that the project meets the requirements of the organisation, while the embedded support would provide for the day-to-day administrative management of the project according to the donor's specific requirements, as well as providing relevant expertise to supplement that in the Secretariat.

• Conclusions and recommendations from the study are reviewed and formulated by the relevant Task Team for briefing and presentation to Council.

• Council reviews and endorses recommendations and formulates advise to Parties, where relevant.

6 Proposed Procedures to be Developed for ORASECOM

Following the recommendations in the previous chapter and the Terms of Reference for this project, the following procedures and protocols are proposed to be developed for ORASECOM.

1. *Council Charter [outline draft during July]*

    A Council Charter[2] provides the procedures for good governance by the Council as the body with fiduciary and strategic responsibility for ORASECOM, and may include sections on:
    o the role of Council in the organisation (as well as the role of the Task Teams and Executive Secretary in supporting Council);
    o fiduciary duties of Council and delegates, with respect to the functional and financial operations of ORASECOM, as well as the reporting responsibilities of the Secretariat to Council;
    o procedures for Council meetings (review of existing procedures);
    o responsibilities, duties and obligations of the delegates in representing Parties; and
    o procedures for Bilaterals reporting to Council, considering what should be reported on and the way in which it should be reported.

2. *Procedures for Delegations [draft during August]*

    Procedures for Parties to consider (as recommendations to Parties) in respect of:
    o appointing and induction of delegations to Council or Task Teams;
    o briefing of Council delegates by Task Teams (or others) prior to council meetings;
    o raising basin issues from a Party for ORASECOM Council to consider.

3. *Procedures for Council in formulating Recommendations to Parties [draft during July]*

    Procedures for Council to follow in discussing and formulating recommendations to Parties, based on input from Task Teams, including form and costing.

4. *ORASECOM Project Management Protocols [draft during July]*

    Protocols for managing ORASECOM projects, including roles and responsibilities of:
    o Council in formulating the scope and reviewing recommendations;
    o Task Teams as Steering Committee and developing recommendations to Council;
    o Secretariat in drafting TOR, mobilising resources and managing contracts.

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[2] Typically a Board adopts a Charter which outlines roles, responsibilities and duties of members in the pursuit of good governance and transparency.

5. *Terms of Reference for Task Teams [draft during July]*

Terms of Reference for the Technical Task Team, Legal Task Team and Communications Task Team, as well as a generic ToR for future Task Teams, outlining the purpose and functions of the Task Team and the responsibilities of Parties' representatives on these Task Teams. It may be appropriate to consider a Monitoring & Information Task Team, possibly as an evolved Technical Task Team.

6. *Executive Secretary accountability, responsibilities and delegations [draft during July]*

Procedures outlining the accountability, responsibilities and necessary delegations, based on the approved Executive Secretary job description, as well as the requirements for effectively managing an organisation such as ORASECOM.

7. *ORASECOM Secretariat Operational Procedures [outline draft during August]*

Operational procedures indicating the effective management and functioning of the organisation (not including HR policies/procedures).

8. *Protocols on External Engagement [outline draft during August]*

Protocols on engagement by ORASECOM structures with external groups, indicating the mandate and responsibilities of Council Delegates, Task Team members, the Executive Secretary and Secretariat staff acting on behalf of ORASECOM in engaging:
o   SADC Secretariat;
o   International cooperating partners;
o   Other water institutions within the Member States (and beyond); and
o   Media (press).

9. *Procedures for Information Sharing [draft during July/August]*

Procedure, guidelines and/or protocols on the sharing of information (including process and appropriate content), including:
o   between Parties and ORASECOM;
o   between Bilaterals and ORASECOM (including what is relevant information);
o   use and dissemination of ORASECOM information (sources from another Party) by the Secretariat or another Party; and
o   between Parties in the period between meetings (facilitated by the Secretariat), including the possible role of a Monitoring & Information Task Team, referring to the ToR for the Communications Task Team.

10. Protocol on ORASECOM interaction with SADC [draft during July]

Protocol for engagement between ORASECOM and SADC (based on the emerging SADC guidelines on this matter), including:

o   reporting responsibilities by ORASECOM to SADC on the Protocol (including Council and Secretariat responsibilities); and

o   communication between SADC and ORASECOM around strategic support and SADC initiatives.