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Report of a UNEP/PADELIA SADC Sub-Regional Meeting on Development and Harmonization of Environmental Laws and Institutions in Botswana, Lesotho, Malawi and Swaziland

Introduction

1. A meeting involving four 4 SADC States of Botswana, Lesotho, Malawi and Swaziland was held at **Mondior Summit Hotel, Gaborone, Botswana 25-28 April, 2006** to develop and harmonize their national environmental laws and policies in selected areas of **biosafety, environmental impact assessment and wastes/chemicals management**. The objectives of the meeting were, among others, to-
 - a. Ensure that the recommendations for policies and law for the respective environmental law topics in each project country are as far as possible in harmony;
 - b. Facilitate the development of legal and institutional mechanisms which are comparable as much as possible in all the four sub-regional countries;
 - c. Recommend harmonized normative prescriptions and institutional mechanisms for effective implementation and enforcement of respective environmental laws;
 - d. Create an opportunity for dealing with the respective environmental problems according to the problem-sheds, which are essentially sub-regional;

- e. Develop proposals for facilitating the development and harmonization of environmental laws and institutions which can facilitate regional integration under the SADC Treaty and related instruments; and
 - f. Make recommendations on how each country should proceed towards implementation of the recommendations.
2. The meeting was held under the support of UNEP's project on the Partnership for the Development of Environmental Law and Institutions in Africa (PADELIA). In the SADC sub-region, the project is being implemented in Botswana, Lesotho, Malawi and Swaziland.

Attendance

3. The Meeting was attended by PADELIA National Project Coordinators from the 4 countries, the National Consultants who prepared the review reports and draft legislation. Representatives from SADC Secretariat, IUCN ROSA, Basel Convention Regional Centre, and UNEP also attended the meeting. The List of Participants is attached as **Annex I**.
4. Mr. Steven Mona, Director of the Department of Environmental Affairs, Botswana who represented the Permanent Secretary Ministry of Environment opened the Meeting. Mr. Mona conveyed greetings from the Permanent Secretary and expressed gratitude to UNEP for choosing Botswana as the host country and stressed the importance of the harmonisation process. Mr. Robert Wabunoha, who represented UNEP/PADELIA highlighted the history of PADELIA and the need for the SADC countries to harmonize their environment legislation. He also outlined the expected outputs of the meeting and thanked Botswana for hosting the meeting.

Proceedings of the meeting

5. The UNEP Consultant, Mr. Gracian Banda presented the Synthesis Report, which formed the basis for Meeting, by highlighting the main issues and findings. The meeting basically was conducted in a participatory manner by the presentation of country reports, group and plenary sessions. The Agenda of the meeting is attached as **Annex II**.

Closure of the Meeting

6. At the conclusion of the Meeting, the participants made a resolution, various recommendations, and proposals on how the process of development and harmonisation of the environmental law should be continued. The recommendations and proposals were directed to the various institutions such as the consultants

themselves, governments, and sub regional and regional organisations. The Resolutions are contained under **Annex III** and the Proposals under **Annex IV**.

7. In addition, the Participants agreed form a SADC Network of Experts on Development and Harmonisation of Environmental Law to act as a catalyst for influencing development and harmonisation of environmental law in the region. A Task Force of Conveners was accordingly elected to lead the operationalization including developing terms of reference or operational modalities of this Network.

8. The Participants also made an Evaluation of the Meeting. The Summary of the evaluation is attached as **Annex V**.

**UNEP/PADELIA SADC Sub-Regional Meeting on Development and
Harmonization of Environmental Laws and Institutions in Botswana, Lesotho,
Malawi and Swaziland**

LIST OF PARTICIPANTS

BOTSWANA

Mr. Steven Monna
Director: Department of environmental Affairs
Private Bag 0068,
Gaborone
Botswana
Tel: (+267) 3902050
E-mail :

Ms. Lillian Motshabi Motlhatlhedhi
Senior State Counsel
AG's Chambers HQ (Government Enclave)
Private Bag 009
Gaborone, Botswana
Tel: 267 361 3651
Email: LMMotlhatlhedhi@gov.bw

Ms. Motlalepula Sedikeco Segopolo
Chief Legislative Draftsman
Attorney General's Chambers
Private Bag 009
Gaborone, Botswana
Tel: 267 361 3678
Email: msegopolo@gov.bw

Mr. Mmolaadira Autlwetse
Department of environmental Affairs
Private Bag 0068,
Gaborone
Botswana
Tel: (+267) 3902050
E-mail : mautlwetse@gov.bw

Mr. Unopa Sikuku
Component Manager Natural Resources, GOB, UNDP
Environmental Support Programme
Dept. of Environmental Affairs
Private Bag 008

Gaborone
Botswana
Tel: (+267) 3902050 9(254)
E-mail: usikuku@gov.bw

Ms. Mpho Mosate
Component Manager Environment Governance
GOB/UNDP Environment Support Programme
Dept. of Environmental Affairs
Private Bag 0068
Gaborone
Botswana
Tel: (+267) 3902050 (255)
E-mail : mrmosate@gov.bw

Mr. Duma Boko
International Commerce Park
Private Bag BR320, Gaborone
Botswana
Tel: (+267) 3909696
Fax: (267) 3164907
Email: bomorake@botsnet.bw

Mr. Kagiso Keatimilwe
CSIR
P O Box 320
Stellenbosch 7599
South Africa

Tel: 021 888 2477
Fax: 021 888 2693
Email: kkeati@csir.co.za

Mrs. Vuyi Garekwe
Director Company House (PTY) LTD.
Tel 390 1368
Email: vuyi@companyhousebots.com

Mrs. Angelina Sosome
Email: sosomeak@mopipi.ub.bw
Tel: 3552274
P O Box 40707
Gaborone
Botswana

Dr. Baathodi Molatlhegi
Mothlalegi & Associates
684/6 Botswana Road
P O Box 10193
Gaborone
Botswana
Email: molatlhegi@info.bw

Ms. Kulthoum Omari
Environmental Consultant
Aqualogic (PTY) LTD
P. O. Box 403975
Gaborone,
Botswana
Tel: (+267) 3180216
Fax: (+267) 3180218
Mobile: (+267) 71879582
Email: kulthoum@aqualogic.co.bw

LESOTHO

Ms. Makhiba Tjela
Principal Environment Officer (Legal)
Ministry of Tourism, Environment and Culture
P.O. Box 10993
Maseru 100
Lesotho
Tel: (266) 2231 1767/2232 0406
Cell: (266) 5885 4686
Fax: (266) 2231 0194/22311139
Email: padeliales@leo.co.ls

Ms. Dinah 'Masebelu Makhobole
Deputy Parliamentary Counsel
Attorney General's Chambers
P.O. Box 33
Maseru 100, Lesotho
Tel: 266 2231 2736
Fax: 266 2231 1092
Email:

Ms. Mamello Nkuebe
Mophethe-Nkuebe Chambers
P.O. Box 7497
Maseru 100
Tel: 266 2233 3836/622019172
Fax:
Email:

Ms. Kuena Mophethe
Mophethe-Nkuebe Chambers
P.O. Box 7497
Maseru 100
Tel: (+266) 2231 4331
Cell: (+266) 5885 2284
Email: kmophethe@ilesotho.com

MALAWI

Ms. Gertrude Lynn Hiwa
Assistant Chief Parliamentary Draftsperson
Ministry of Justice
Private Bag 333
Lilongwe 3, Malawi
Tel: 265 1 788 411/768
Fax: 265 1 788 332/209
Email: hiwagl@malawi.gov.mw
Or glynnhiwa@yahoo.com

Mr. Lyson J. Kampira
Environmental Affairs Department
Private Bag 394
Lilongwe 3
Malawi
Tel: (265) 1 771 111 or 773 449
Cell: (265) 9 916 036
Email: ljkampira@yahoo.com;
lkampira@malawi.gov.mw

Prof. John Saka
Professor of Chemistry
University of Malawi
Chemistry Department, Chancellor College
P.O. Box 280
Zomba, Malawi
Tel: 265 1 524 222/527 133
265 9 939 472
Fax: 265 1 524 046
Email: jsaka@chanco.unima.mw;
saka_john@yahoo.co.uk

SWAZILAND

Mr. Stephen Zuke
Swaziland Environment Authority
Ministry of Tourism, Environment and
Communications
P.O. Box 2652,
Mbabane, Swaziland

Tel: (268) 404 6420/7983
Fax: (268) 404 1719/5415
Email: seabiodiv@realnet.co.sz

Ms. Gcinaphi Mndzebele
Attorney General's Office
P.O. Box 578
Mbabane, Swaziland
Tel:
Fax: 268 404 4796/404 3533
Email: cdcresearchteam@realnet.co.sz

Ms. Gabisile Mabuza
Conveyancer/Legal Advisor
Attorney General's Office
P.O. Box 578
Mbabane, Swaziland
Tel: 268 4046010/9
Fax: 268 404 4796/404 3533
Email: mabuzaga@gov.sz

Ms. Constance Dlamini
Swaziland Environment Authority
Ministry of Tourism, Environment and
Communications
P.O. Box 2652,
Mbabane, Swaziland
Tel: (268) 404 7893/404 6420
Cell: (268) 624 8074
Fax: (268) 404 1719/5415
Email: seabiodiv@realnet.co.sz

MOZAMBIQUE

Mr. André da Silva
Head of the Legal Department
Ministry for Coordination of Environmental Affairs
P.O. Box 2020
Av. Acordos De Lusaka, 2115
Maputo, Mozambique
Tel: (258) 21 46 7020/1
Cell: (258) 82 32 96 450
Tel/Fax: (258) 2146 6971
E-mail: andredasilva@intra.co.mz

BASEL

Dr. John Mbogoma
Executive Director
Basel Convention Regional Centre

CSIR
Meiring Naude Road
Block 4
P.O. Box 109
Silverton, Pretoria
South Africa
Tel: 27-12 349 1130
Fax: 27-12 349 1043
Email: john@baselpretoria.org.za

SADC SECRETARIAT

Dr. George Phiri
Technical Advisor (Invasive Alien Species)
SADC Biodiversity Support Programme
Private Bag 00300
Gaborone, Botswana
Tel.: (267) 3188 351/352
Fax: (267) 3188 353
E-mail: george.phiri@iucn.org

Mr. Kenyatta Nyirenda
Senior Legal Counsel
SADC Secretariat
Private Bag 0095
Gaborone
Botswana
Tel: + 267 395 1863
Fax: + 267 397 2848
Email: KNyirenda@sadc.int

IUCN ROSA

Ms. Kamwenje Nyalugwe
Environmental Lawyer
IUCN Regional Office for Southern Africa
IUCN Botswana Office
Kgale Siding
Private Bag 00300
Gaborone, Botswana
Tel: +2673971584
Fax: +2673971584
E-mail: kamwenje.nyalugwe@iucn.org

FACILITATOR

Mr. Gracian Banda
Centre for Environmental Policy and Advocacy
P.O. Box 5062
Limbe, Blantyre, Malawi
Tel: 265 1 622 593
Cell: 265 (0) 996 1170

Fax: 265 1 624 396
Email: gracian@cepamw.com

UNEP

Mr. Robert Wabunoha
Legal Officer
Environmental Law Branch
Division of Policy Development and Law
P.O. Box 30552, 00100 Nairobi
Kenya
Tel: 254-20 7625068
Fax: 254 20 7623859/3420
Email: Robert.wabunoha@unep.org

ANNEX 2

UNEP/PADELIA SADC Sub-Regional Meeting on Development and Harmonization of Environmental Laws and Institutions in Botswana, Lesotho, Malawi and Swaziland

AGENDA

| TIME | ACTIVITY |
|---|---|
| MONDAY, 24TH APRIL 2006 | |
| | Arrival of participants at Mondior Summit Hotel, Gaborone |
| TUESDAY, 25TH APRIL, 2006 | |
| 8:30 – 09:00 hrs | Registration, welcome and Introductions |
| 09:00 – 10:00 hrs | Official Opening |
| 10:00 – 10:15 hrs | Background of SADC Sub-regional Harmonization Workshop Objectives and Organization of Work |
| 10:15 – 10:30 hrs | Country Status Reports: Botswana, Lesotho, Malawi and Swaziland |
| 10:30 – 11:00 hrs | TEA BREAK |
| 11:00 – 11:20 hrs | Regional synthesis report and discussions |
| 11:20 – 11:50 hrs | Presentation and discussion of Botswana Country Report on EIA |
| 11:50 – 12:20 hrs | Presentation and discussion of Lesotho Country Report on EIA |
| 12:20 -13:00 hrs | Presentation and discussion of Swaziland Country Report on EIA |
| 13:00 – 14:00 hrs | LUNCH BREAK |
| 14:00 – 15:30 hrs | Presentation and discussion of Malawi Country Report on Hazardous and Chemicals Substances |
| 15:30 – 16:00 hrs | Presentation and discussion of Botswana Country Report on Chemicals/Hazardous Substances |

| TIME | ACTIVITY |
|--|---|
| 16:00 – 16:30 hrs | TEA BREAK |
| 16:30 – 17:00 hrs | Presentation and discussion of Swaziland Country Report on Hazardous and Chemical Substances |
| 17:00 – 17:10 hrs | Summary and close for day One |
| WEDNESDAY, 26TH APRIL 2006 | |
| 09:00 – 09:10 hrs | Recap of day 1 |
| 09:10 – 09:40 hrs | Presentation and discussion of Lesotho Country Report on Waste Management |
| 09:40 – 10:10 hrs | Presentation and discussion of Malawi Country Report on Waste Management |
| 10:10 – 10:30 | Presentation on the Basel Convention regional centre |
| 10:30 – 11:00 hrs | TEA BREAK |
| 11:00 – 11:30 hrs | Presentation and discussion of Botswana Country Report on Biosafety |
| 11.30 – 12:00 hrs | Presentation and discussion of Malawi Country Report on Biosafety |
| 12:00 – 12:30 hrs | Presentation and discussion of Swaziland Country Report on Biosafety |
| 12:30– 13:00 hrs | Presentation and discussion of Lesotho Country Report on Biosafety |
| 13:00 – 14:00 hrs | LUNCH BREAK |
| 14:00 – 14:20 hrs | Plenary Session: Introduction of Group Discussions |
| 14:20 – 17:00 hrs | Group Work on country specific issues for development and harmonization of environmental laws and institutions in SADC Sub-region (WITH TEA BREAK) |
| THURSDAY, 27TH APRIL 2006 | |
| 09:00 – 10:00 hrs | Presentation and plenary discussion of Group Work |
| 10:00 – 10:20 hrs | Plenary Session: Introduction of Group Discussions |

| TIME | ACTIVITY |
|---|---|
| 10:30 – 12:30 hrs | Group Work on development of elements, principles and best practices for national and regional harmonization of environmental law and institutions in SADC Sub-region (WITH TEA BREAK) |
| 12:30 – 14:00 hrs | LUNCH BREAK |
| 14:00 – 15:00 hrs | Presentation of Group Work |
| 15:00 – 15:30 hrs | TEA BREAK |
| 15:30 – 16:30 hrs | Plenary on development of recommendations on harmonization and way forward |
| 16:30 – 17:00 hrs | Summary of day 3 |
| FRIDAY, 28TH APRIL 2006 | |
| 09:00 – 10:30 hrs | Presentation and discussion of zero draft Work Plan |
| 10:30 – 11:00 | TEA BREAK |
| 11:00 – 12:30 hrs | Plenary discussions on development and adoption of recommendations for national and regional harmonization of environmental laws and institutions |
| 12:30 – 13:00 hrs | Closure and Evaluation of Workshop |
| 13:00 – 14:00 hrs | LUNCH BREAK |
| SATURDAY, 29TH APRIL 2006 | DEPARTURE |

Annex III

UNEP/PADELIA SADC Sub-Regional Meeting on Development and Harmonization of Environmental Laws and Institutions in Botswana, Lesotho, Malawi and Swaziland

Held at Mondior Summit Hotel, Gaborone, Botswana, 25-28 April, 2006

RESOLUTIONS

Introduction

A Meeting involving 4 SADC States of Botswana, Lesotho, Malawi and Swaziland was held at **Mondior Summit Hotel, Gaborone, Botswana 25-28 April, 2006** to harmonise environmental law and policy in selected areas of **biosafety, environmental impact assessment and wastes/chemicals management**. PADELIA National Project Coordinators, National Consultants who prepared the review reports and draft legislation and representatives from SADC Secretariat, IUCN ROSA and the Basel Convention Regional Centre, attended the meeting. The meeting was held under the support of UNEP's project on the Partnership for the Development of Environmental Law and Institutions in Africa (PADELIA).

Resolutions

The Participants agreed that in view of the interdependence between SADC economies and their overall dependence on environment and natural resources, there is need for the countries to ensure that their environment and natural resources policies, legislation, programmes and practices are consistent and mutually supportive. This process will assist in implementation of the SADC Treaty and protocols thereunder already in force and ensure that the regional economic integration agenda is achieved.

The participants also agreed on the next steps to be undertaken in order to facilitate the implementation of the proposals.

The participants in the Gaborone Meeting made a Resolution generally for the development and harmonization of environmental law and institutions for SADC sub-region and specifically for harmonisation of the three selected areas of biosafety, environmental impact assessment, hazardous substances and waste management in the 4 project countries.

The Participants resolved that-

1. Participating countries are requested to revise national reports, where necessary, in accordance with the guideline provided by UNEP and ensure that they address the proposals and recommendations made at this meeting. The revised reports should be

submitted **within twenty-one days** of the date hereof (**National Consultants/UNEP/National Project Co-ordinators**);

2. A summary of Meeting recommendations on subject specific areas for national and regional harmonisation should be prepared **within ten days** of the date hereof and circulated to all participants for comments (**UNEP**);
3. UNEP is requested to convene a meeting of Principal/Permanent Secretaries and Directors from Botswana, Lesotho, Malawi and Swaziland to facilitate government commitment and ownership of the Meeting proposals and recommendations within **two months** of the date hereof (**UNEP/NPCs**);
4. The Meeting proposals and recommendations should be submitted to the SADC Executive Secretary **within three weeks** of the endorsement of the proposals by Permanent/Principal Secretaries (**UNEP/NPCs**);
5. After endorsement by Permanent Secretaries/Directors, the proposals for harmonization should be shared with national and international NGOs such as IUCN ROSA, BCRC, WWF and donor agencies through respective project countries to ensure the proposals are incorporated, funded and or promoted in projects and programmes of these organizations where necessary (**NPCs**);
6. The proposals for harmonization should be shared with all SADC Member States **within one month** of their being submitted to SADC (**SADC Secretariat**);
7. UNEP/PADELIA is requested to facilitate participation of other SADC countries in the PADELIA project (**UNEP**);
8. The proposals for harmonization should also be shared with relevant African Union institutions such as NEPAD (**UNEP/SADC**);
9. Countries that have already enacted and are implementing legislation pertaining to the subject matters dealt with in this process are encouraged to review their legislation and incorporate the proposals for harmonization where necessary (**SADC Secretariat**); and
10. Workshop participants agreed to form a SADC Network of Experts on Development and Harmonisation of Environmental Law to act as a catalyst for influencing development and harmonisation of environmental law in the region. A Task Force (Convenors) was elected to lead the operationalization including developing terms of reference or operational modalities of this Network. The Task Force members are *Duma Boko (Botswana)(Convenor), Gracian Banda (Malawi), Tjela Makhiba (Lesotho), Steven Zuke (Swaziland), Andre da Silva (Mozambique), Representatives from IUCN ROSA and BCRC.*

ANNEX IV

UNEP/PADELIA SADC Sub-Regional Meeting on Development and Harmonization of Environmental Laws and Institutions in Botswana, Lesotho, Malawi and Swaziland

Held at Mondior Summit Hotel, Gaborone, Botswana, 25-28 April, 2006

Proposed Areas for Development and Harmonization of Environmental Law and Institutions in Selected Areas in Southern Africa

1. Introduction

The United Nations Environment Programme is implementing a project called Partnership for the Development of Environmental Law and Institutions in Africa (PADELIA). The project currently covers 13 countries. Its overall objective is to assist these countries to address negative environmental trends and attain sustainable development through effective legal and institutional regimes as well as competent and sustained expertise. In the SADC region the project covers Botswana, Lesotho, Malawi and Swaziland where the focus is on both national and sub regional matters.

UNEP organized a sub regional meeting in Gaborone, Botswana in which representatives from the four SADC countries made presentations of their national reports which reviewed policy and legislation covering biosafety, Environmental Impact Assessment, Hazardous wastes, chemicals and waste management. Participants included national coordinators of PADELIA from all the four countries, consultants who conducted national reviews and representatives from the SADC Secretariat, UNEP, IUCN and the Basel Convention Regional Centre. The objectives of the workshop were as follows -

1. Ensure that the recommendations for policies and law for the respective environmental law topics in each project country are as far as possible in harmony;
2. Facilitate the development of legal and institutional mechanisms which are comparable as much as possible in all the four sub-regional countries;
3. Recommend harmonized normative prescriptions and institutional mechanisms for effective implementation and enforcement of respective environmental laws;
4. Create an opportunity for dealing with the respective environmental problems according to the problem-sheds, which are essentially sub-regional;
5. Develop proposals for facilitating the development and harmonization of environmental laws and institutions which can facilitate regional integration under the SADC Treaty and related instruments; and

6. Make recommendations on how each country should proceed towards implementation of the recommendations.

This is a summary of proposals and recommendations made by participants.

2. General Recommendations

2.1 Role of International and regional instruments in Regional Harmonization

- 2.1.1 International instruments provide a forum through which countries find common ground, share experiences, expertise and technical expertise for national and regional programmes;
- 2.1.2 International instruments require state parties to prepare and submit reports to secretariats of these instruments and act as monitoring tools for implementation of best practices and general principles;
- 2.1.3 International instruments provide minimum standards and therefore constitute key instruments for harmonizing state practice, even where a state is not party to an international agreement;
- 2.1.4 It is therefore recommended that the role of regional and international instruments in development and harmonization of national policies and legislation should be enhanced through appropriate coordinating institutions, which can provide information, monitor implementation and ensure harmonized approaches to international negotiations.
- 2.1.5 SADC should take the lead in encouraging member states to become party to or incorporate provisions of certain conventions which are perceived to be useful to the region;
- 2.1.6 SADC member States should take advantage of existing harmonizing frameworks in the implementation of related international instruments such as those under CBD, Climate Change Convention and Desertification Convention to build capacity at regional and national level;
- 2.1.7 SADC Member States should create a coordination unit for different regional and international instruments. The coordinating institution should widely disseminate these instruments so as to ensure that officials and members of the general public have access to such instruments to facilitate implementation.
- 2.1.8 Joint capacity building programs should target key stakeholders such as policy makers, general public, private sector and civil society such as through SADC national committees created under the SADC Treaty;

- 2.1.9 Partnership with international institutions should be developed to enhance capacity in implementation of projects and programmes.

2.2 Role of SADC Institutions in regional harmonization

- 2.2.1 SADC secretariat should take the lead in ensuring development of a protocol on environment;
- 2.2.2 SADC should take the lead in encouraging member states to become party to or incorporate provisions of certain conventions which are perceived to be useful to the region;
- 2.2.3 SADC should play a leading role in transboundary natural resources management initiatives and facilitate incorporation of environmental considerations in their operations and institutional frameworks;
- 2.2.4 The proposed SADC protocol on environment should stipulate standards for mainstreaming environmental considerations in all policy, plans, projects and programmes in the region.
- 2.2.5 SADC Member States should take measures to implement international agreements which are useful to them and the region without necessarily being party to the agreement;
- 2.2.6 SADC should develop a protocol on environment to address the gap on environmental governance in general and management of the brown environment in particular including waste, hazardous waste and chemicals; as well as EIA and biosafety issues which are not dealt with by any existing protocol;

2.3 Development and Harmonization of national policy and legislation

- 2.3.1 SADC Member States should enact framework environment legislation, which should be overarching legislation on environment and natural resources issues. All sectoral laws must be consistent with the framework law;
- 2.3.2 The framework environmental law must stipulate general principles such as the sustainability, polluter pays, inter and intra-generational equity, environmental integration and other principles; these should be the building blocks for the framework and sector laws as well as the institutional arrangements for implementation.
- 2.3.3 The framework law will assist in eliminating conflicts, overlaps and duplication within and among the sectoral laws and the framework law. It

will also promote coordination and mainstreaming of environmental considerations in development programmes;

- 2.3.4 SADC member states should establish or strengthen an institutional framework that can effectively co-ordinate environment and natural resources management at national level.
- 2.3.5 SADC Member States should establish either an independent environmental agency or a government department to coordinate environment and natural resources management. The institution must however possess appropriate powers to co-ordinate activities of various sector agencies and compel compliance of relevant policies and legislation
- 2.3.6 Framework laws should provide state responsibility to provide a clean and healthy environment;
- 2.3.7 Framework laws must make provision for relaxed procedures of standing to enable interested and affected persons to take legal action where an activity has adverse effects on the environment even though the litigant can not prove personal harm;
- 2.3.8 Framework and other sector laws should provide mechanisms for extra territorial application of national environmental law under reciprocal arrangements;
- 2.3.9 Polluter pays principle should be observed so as to ensure that those who degrade the environment take responsibility for its restoration.
- 2.3.10 SADC Member States should establish environmental tribunals as a specialist tribunal to deal with environmental matters, which are often technical and require timely adjudication.
- 2.3.11 Where national remedies have been exhausted the SADC Tribunal should be utilized to resolve regional environmental disputes. However a specialized bench should be considered when environmental disputes are referred to the SADC Tribunal.

3. DEVELOPMENT AND HARMONIZATION OF ENVIRONMENTAL LAWS AND INSTITUTIONS IN SELECTED SUBJECT AREAS

3.1 Biosafety

3.1.1 Definitions & Scope

- (a) Definitions of key concepts should follow those in international instruments such as the CBD, the CPB and the African Model Law on Safety of Biotechnology;
- (b) The scope should cover protection of human health and the environment and should specifically regulate research and experimentation on human genes in the context with ethics, religion, social and cultural norms of each society;

3.1.2 Policy Making and Implementation

- (a) Policy making should be centralised in a single institution while implementation and monitoring should be undertaken by other relevant sectors;
- (b) There is need to separate regulatory from development/promotion functions and responsibilities so as to ensure there is no conflict of interest in biotechnology regulation;
- (c) Responsibility for regulation and monitoring of research should be given to a single central institution while the sectors and other institutions carry out the research;
- (d) SADC should develop a clear common policy on biotechnology and biosafety to ensure that Member States develop their policies along the agreed guidelines. The policy should be incorporated in the proposed protocol on environment;
- (e) In order to promote research and development in biotechnology appropriate funding mechanisms should be established and fees and permits should be charged to expand the funding base;
- (f) SADC Countries should develop and incorporate in the proposed protocol on environment uniform and unified labelling systems and regulations in terms of detail;
- (g) Regional policy should balance bio-safety and trade issues taking into consideration the precautionary principle, comparative advantages of Member States in international trade and levels of development of the biotechnology industry.
- (h) Where there is conflict between international instruments such as the CBD and WTO/TRIPs or the African Model Law on Biosafety and CPB, SADC should take a decisive uniform approach and incorporate these in a protocol on environment.

3.1.3 **Capacity building at regional level**

- (a) There is a urgent need for capacity building in terms of both human, technical and facilities/equipment capacity;
- (b) The human resource development should not only include practitioners but also end users;
- (c) Information sharing/exchange should be improved and enhanced. Where clearinghouse mechanisms do not exist, countries should set these up;
- (d) SADC should co-ordinate establishment of clearinghouse mechanisms.
- (e) SADC Member States should facilitate synergy amongst existing institutional frameworks such as those dealing with Biosafety under CBD /CPB and WTO/TRIP so as to ensure that there is complementarity between trade and biosafety regulation; and
- (f) SADC Member States should establish mechanisms for joint training, information exchange and capacity building of both human, technical and facilities resources.

3.1.4 **Trans-boundary movement of GM products**

- (a) SADC Member States should establish clear guidelines and regulations based on CBD, CPB and SADC guidelines and incorporate these in the proposed protocol on environment;
- (b) SADC member States should develop monitoring and control systems on transboundary movement of modern biotechnology products such as GMOs to ensure adherence to the laws and guidelines.
- (c) The proposed protocol on environment should address issues of cross-border liability and redress relating to modern biotechnology products.

3.2 **Environmental Impact Assessment**

3.2.1 **Regional harmonization**

- (a) The proposed protocol on environment should deal with environmental impact assessments and incorporate existing international instruments such as CBD, Rio Declaration and others;
- (b) EIA should be considered as a principle for minimization of environmental impacts and a tool for planning and decision making at all levels;

- (c) The proposed protocol on environment should incorporate guidelines and principles to be followed by SADC Members States when undertaking environmental assessments of a Transboundary character;

3.2.2 EIA Practice at regional level

- (a) All projects of Transboundary character should be subjected to EIA processes;
- (b) The proposed protocol on environment should clearly categorize projects requiring EIA to be harmonised at regional level as follows:
 - i) No impact, no Environmental Management Plan (EMP) or EIA, developer should use good environmental management practices and comply with applicable policies and legislation;
 - ii) No serious impacts observed, EMP required;
 - iii) Serious impacts envisaged, full EIA to be conducted;
- (c) The proposed environment protocol should provide procedures for EIA including who should take decisions relating to Transboundary assessments;
- (d) The proposed protocol on environment should establish common EIA threshold for ecosystems that cut across borders;
- (e) The proposed protocol on environment should ensure that standards for accreditation of EIA experts are comparable at regional level and provide for mutual recognition of EIA qualifications and practitioners to enable them undertake transboundary assessment and to practice in other SADC Member States;

3.2.3 EIA Legislation and Practice at National Level

- (a) EIA legislation can be in form of principal provisions under a framework law supported by detailed regulations or an EIA Act with regulations/guidelines;
- (b) EIA legislation should categorise projects requiring EIA based on the following scenarios:
 - i) No impact, no EMP or EIA, developer should use good environmental practices and comply with applicable policies and legislation;

- ii) No serious impacts observed, EMP required;
 - iii) Serious impacts envisaged, full EIA to be conducted;
- (c) The decision as to which option to take should be taken in a transparent, accountable manner and should afford the developer the right to be heard;
- (d) SADC Member States should make provision in the harmonised environment laws or EIA guidelines and regulations for removal of experts from EIA list where an expert fails to perform satisfactorily.
- (e) SADC Member States should make provisions for Strategic Environmental Assessment to be conducted where repeated, cumulative impacts in similar locality are envisaged.
- (f) SADC member states should include provisions in the EIA legislation that ensures public participation at different stages of the EIA;
- (g) EIA legislation should clearly define all the stages of EIA in order to enable developers know what to expect and when in the project planning and execution process;
- (h) EIA should be conducted by the developer with the advice and guidance of the institution responsible for environment and natural resources management;
- (i) Enforcement of EIA legislation should comprise various mechanisms including use of administrative enforcement orders, court injunctions, provision of standing in the law for interested and affected persons so as to enable the public to challenge decisions of the review; establishment of environmental tribunals; and use of incentives or disincentives (such as tax regimes)
- (j) SEA should be conducted for policies, legislation, programmes strategic plans to address zoning, repetitive, cumulative impacts in similar locality;
- (k) Proponents of programs and policies should be responsible for implementing the SEA;
- (l) In order to ensure that EIA approvals are not misinterpreted as licenses, EIA certificates should be issued and not compliance certificates.

3.2.4 Capacity Building

The development of expertise in EIA should be promoted. This should involve both the capacity of practitioners and that of the reviewers and enforcement or monitoring personnel. The following are some of the strategies that should be incorporated:

- (a) Accreditation system to be put in place;
- (b) Competent authority to set minimum standards for accreditation;
- (c) Establishment of a register of EIA experts;
- (d) Ensure that standards for accreditation are comparable at regional level;
- (e) Make provision in the environment framework law or EIA guidelines and regulations for striking out experts who can not perform their functions satisfactorily;
- (f) Enhancing capacity of law enforcement personnel in environmental law;
- (g) Developing a system of mutual recognition and acceptance of qualifications of EIA experts at regional level to ensure that those qualified can undertake EIA in participating countries;

The participation of the public in the EIA process is an essential part of the process; deliberate steps must therefore be taken to ensure that such participation is timely, meaningful and comprehensive. The following are some of the strategies that can be utilized in the process:

- (a) Convene meetings in appropriate languages;
- (b) Providing information in non technical language;
- (c) Clearly explaining consequences of certain projects;
- (d) Establishing mechanisms to enhance access to information;
- (e) Use of media to disseminate information such as print, electronic including drama;
- (f) Inform local leaders on the details of certain projects;
- (g) Utilise existing expertise in different projects;

- (h) The burden of ensuring that the public is aware should be on the developer;
- (i) Need to provide feedback to ensure that the general public appreciate the value and maintain interest in consultation processes.

3.3 Hazardous Wastes, Chemicals and Toxic Substances

3.3.1 Role of international/Regional/Sub-Regional and Bilateral Instruments

- (a) International Conventions include the Basel, Stockholm, Rotterdam, OPCW;
- (b) SADC Protocols on Watercourse systems, Trade, Transport and other sectors are also significant in that their implementation may be affected by or they may affect issues relating to chemicals, hazardous wastes and waste management;
- (c) The BAMAKO Convention bans importation of hazardous wastes from developed countries to Africa and is intended to address interests of the Africa region;
- (d) Implementation of the SADC Protocols on watercourse systems, trade and transport should consider waste management issues; hence multilateral institutions such as ZAMCOM, OKACOM, Joint Water Commissions in shared water resources should consider waste management issues;
- (e) Bilateral agreements such as those which establish Trans Frontier Conservation Areas should address waste management issues to ensure sustainable environment and natural resources management.

3.3.2 SADC Institutional Framework

- (a) In the prioritized environmental agenda of SADC there is need to highlight waste management issues;
- (b) SADC should strengthen the institutional and human resource capacity for dealing with environment issues including waste management.
- (c) A framework for cross boarder liability and redress should be established for regional harmonization;
- (d) Substantive rules such as polluter pays, comparable civil remedies and relaxing *locus standi* should be established for regional harmonization;
- (e) SADC should establish harmonized standards on management of wastes, toxic substances and chemicals;

3.3.3 Legislation on Chemicals, Hazardous and Toxic Substances and Waste management

- (a) SADC states should adapt the definition of wastes in accordance with the Basel Convention;
- (b) Frameworks for managing transboundary movement of wastes should include:
 - i) Code of practice for transportation drivers in the region including minimum training standards;
 - ii) Unified approach to accreditation;
 - iii) Unified approach towards transportation and labeling;
 - iv) Disaster management strategies;
- (c) SADC Member States should promote harmonised approaches to waste management facilities;
- (d) National legislation should provide for separation of waste at source.

3.3.4 Transboundary Movement of Waste

- (a) Prior notification should be established as standard procedure and should apply to all SADC states including those not parties to applicable international conventions;
- (b) Since SADC Member States have limited capacity in dealing with management of hazardous wastes including emergencies it is necessary to provide for safe guards such as banning or restricting movement of hazardous wastes, and toxic substances.
- (c) SADC Member States should harmonize national standards, in accordance with regional framework on standards applicable to waste management;
- (d) AU bodies should promote regional approaches to waste management;
- (e) SADC Member States should enhance communication and sharing information among national institutions for effective management of wastes.

**UNEP/PADELIA SADC Sub-Regional Meeting on Development and
Harmonization of Environmental Laws and Institutions in Botswana, Lesotho,
Malawi and Swaziland**

SUMMARY OF EVALUATION

1. **Overall:** the meeting was very valuable for interaction and will allow the team of consultants to incorporate recommendations. That it was also a good opportunity to meet with the international organizations such as SADC Secretariat

That there is need for a holistic approach to harmonization of environmental law and the presence and work of SADC will complementing the efforts of the 4 countries

That the meeting was a very valuable resource which should not be allowed to disappear as there were very many unique experiences that are now available to all.

The meeting gave an opportunity to take the process of harmonisation forward, will help in programme implementation and that at the end more than the three areas were captured under this exercise.

The national consultants were able to receive more background information that will enable them to complete the drafting of the laws.

They commended UNEP for extending to journalist to attend as this will improve on awareness.

The Botswana Government and the NPC Lillian were greatly thanked for accepting to host the meeting and NPC for holding and PADELIA for hosting

2. **Organisation:** fairly good improve on -

- a) welcoming of participants,
- b) level of information on logistics, tea/coffee/ financial implications,
- c) reception needed music.
- d) Needed typing facilities. It would too heavy for the participants
- e) DSA should be by cash and not cheques
- f) Programme: Registration was not done
- g) Needed Rapportours to prepare and recap on previous days

The accommodation and venue was very good.

3. **Facilitation:** was very excellent especially the participatory aspects of changing chairpersons. However, the instructions by Facilitator were not clear and needed explanation in order to create uniformity in the outputs.