

COMPENDIUM

of
**Environmental Laws
of African Countries**

**Volume I: Framework Laws
and EIA Regulations**



**UNEP/UNDP Joint Project on
Environmental Law
and Institutions in Africa**



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INTRODUCTION

The Compendium of Environmental Law of African Countries is prepared by ELI/PAC under the auspices of UNEP/UNDP Joint Project on Environmental Law and Institutions in Africa which is funded by the Dutch Government. The objective of the Joint Project is to mobilize the expertise and guidance of six different agencies in working with selected African countries towards the enhancement of their legal and institutional capabilities in the field of environmental law. The agencies involved in this exercise are UNEP, UNDP, FAO, The World Bank, the ECN and the WHO, all of which constitute the Project's Steering Committee.

Eight African countries were selected for the first phase of the project. Activities which are national in character have commenced in Burkina Faso, Malawi, Mozambique and Sao Tome and Principe. The project's work has also commenced in Kenya, Tanzania and Uganda, except that here the focus is on issues of sub-regional character and the concentration is on harmonization of laws and standards to deal with the priority subjects, identified by the respective countries together. Except for consultations with UNDP, Pretoria mainly no activities have commenced in South Africa where the national concern hitherto has been the evolution of the new constitution and the development of a national environmental policy, both essential for subsequent work on the structure of the national and provincial environmental laws.

The necessity for the compendium has been increasingly evident during the foregoing activities, particularly when the *modus operandi* in the project. The approach seeks to operationalize the concept of capacity building by involving the nationals of the project countries in the assessment of their environmental problems, review of the existing environmental laws and drafting of new and streamlined statutes consistent with the modern philosophy and enforcement of environmental law.

In this process, there have been frequent enquiries for the supply of environmental laws of other countries to provide analogies and inspiration for the national teams. It is often the case that laws from the developed countries of Europe and North America are readily available while one will only occasionally find such texts from other African countries. To date, there have been several efforts to collect laws related to environment and natural resources in Africa. An outstanding collection is at the IUCN Environmental Law Centre in Bonn. But there has been no collection which is published and readily available to prospective users in the region.

Over the years, UNEP ELIPAC has collected several texts of national environmental laws from all over the world. African texts from that collection formed the core for the compendium. In addition, all African countries were requested to supply up to date texts on selected themes in environmental law and their response has been highly impressive and very encouraging. In fact, enquiries are frequently being received from those who would like to receive the compendium. So the production of the 1996 Edition will proceed in order to fill that gap. Fresh requests will be sent out for more and updated texts in readiness for an updated 1997 Edition, planned to be released early in 1998.

In our opinion, consumers of the compendium may be in the following five categories: First, the project countries which prompted the initiative to publish the compendium will utilize the handy texts in the on-going work. Secondly, other African countries will find use for the collection for similar endeavours. ELIPAC is working with a number of countries, beside the Joint Project, in the development of environmental laws, and additional requests are in the pipeline. Thirdly, the texts will be used in the same countries for teaching and research in environmental law, which is an exercise in capacity building. It is a fact that those engaged in research and teaching in Africa invariably rely on legislative texts published from North America and Europe and not from Africa which would focus analysis on the unique features of environmental laws in the continent. Fourthly, researchers and commentators from different jurisdictions will find an easy access to the texts from African countries and, therefore, facilitate comparative analysis of the evolution of the relevant doctrines on a global scale. The lack of access to the texts of African environmental laws has impeded this development. Fifthly, donor countries which, like the Dutch Government, may wish to work with countries in Africa or other continents, on the development of environmental laws, will find handy comparative materials. Similarly, partner agencies, which are all active in the development of environmental and natural resources in developing countries, should find the compendium to be a handy source of analogies.

Sharing of comparative texts of national statutes will have the significance of promoting progressive development of environmental laws and countries outside the region would also benefit from recent environmental legislation from Africa. But it may, in addition, lead to gradual harmonization of the respective laws, which may, in turn, be a powerful path to avoidance of conflicts. The 1996 Edition of the Compendium is produced in about five volumes. The first volume contains the framework environmental laws and EIA Regulations only. The remaining volumes contain sectoral laws, organized country by the country in alphabetical order.

The ELI/PAC records profound gratitude to the governments which have made texts available for compilation of the Compendium. The process of creating laws is long and complex. But the development of environmental laws is particularly difficult because of the principles and requirements of the different stakeholders. Therefore, it is fitting that countries which complete the process should be proud to share such texts with the others. The Joint Programme commends the initiative of African countries which is leading to the rapid growth of environmental laws in Africa.

PART I

Framework Laws and Regulations

