

UNITED NATIONS ENVIRONMENT PROGRAMME
NAIROBI

**Convention for the Protection,
Management and Development
of the Marine and Coastal Environment
of the Eastern African Region
and related protocols**



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NOTE. This document should not be considered as an official United Nations document.

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INTRODUCTION

1. In accordance with resolution 2997 (XXVII) of the United Nations General Assembly, UNEP was established "as a focal point for environmental action and co-ordination within the United Nations system". The Governing Council of UNEP has defined this environmental action as encompassing a comprehensive, transsectorial approach to environmental problems which should deal not only with the consequences but also with the causes of environmental degradation.

2. The UNEP Governing Council has designated "Oceans" among the priority areas in which activities are to be developed, and the early meetings of the Governing Council endorsed a regional approach to the control of marine pollution and management of marine and coastal resources. Consequently, in 1974 the Regional Seas Programme of UNEP was initiated.¹

3. At present, in accordance with the decisions of the Governing Council, the Regional Seas Programme covers eleven areas where regional action plans are operative or are under development: the Mediterranean region (adopted in 1975); the Kuwait Action Plan region (adopted in 1978); the West and Central African region (adopted in 1981); the Wider Caribbean region (adopted in 1981); the East Asian Seas region (adopted in 1981); the South East Pacific region (adopted in 1981); the Red Sea and Gulf of Aden region (adopted in 1982); the South Pacific region (adopted in 1982); the Eastern African region (adopted in 1985); the South Asian Seas region (to be developed, adoption expected in 1987); and the South-West Atlantic region (to be developed).

4. The substantive aspect of any regional programme is outlined in an "action plan" which is formally adopted by an intergovernmental meeting of the Governments of a particular region before the programme enters an operational phase. In the preparatory phase leading to the adoption of the action plan, Governments are consulted through a series of meetings and missions about the scope and substance of an action plan suitable for their region. In addition, with the co-operation of appropriate global and regional organizations, reviews on the specific environmental problems of the region are prepared in order to assist the Governments in identifying the most urgent problems in the region and the corresponding priorities to

¹ The objective and strategy of the Regional Seas Programme were adopted at the sixth session of the UNEP Governing Council, see UNEP/GC.6/7, para. 397, approved by GC decision 6/2 of 24 May 1978.

be assigned to the various activities outlined in the action plan. UNEP coordinates directly, or in some regions indirectly through existing regional organizations, the preparations leading to the adoption of the action plan.

5. All action plans are structured in a similar way, although the specific activities for any region are dependent upon the needs and priorities of that region. An action plan usually includes the following components:

(a) Environmental assessment. This concerns assessing and evaluating the causes of environmental problems as well as their magnitude and impact on the region. Emphasis is given to such activities as: baseline studies; research and monitoring of the sources, levels and effects of marine pollutants; eco-system studies; studies of coastal and marine activities and social and economic factors that may influence, or may be influenced by, environmental degradation. Environmental assessment is undertaken to assist national policy makers to manage their natural resources in a more effective and sustainable manner and to provide information on the effectiveness of legal/administrative measures taken to improve the quality of the environment;

(b) Environmental management. Each regional programme includes a wide range of activities in the field of environmental management. Examples of such activities are: co-operative regional projects on training in environmental impact assessment; management of coastal lagoons, estuaries and mangrove ecosystems; control of industrial, agricultural and domestic wastes; and formulation of contingency plans for dealing with pollution emergencies. As both environmental assessment and environmental management activities are to be actually carried out by designated national institutions, assistance and training are provided, where necessary, to allow national institutions to participate fully in the programme;

(c) Environmental legislation. An umbrella regional convention, elaborated by specific technical protocols, often provides a legal framework for co-operative regional and national actions. The legal commitment of Governments clearly expresses their political will to manage individually and jointly their common environmental problems;

(d) Institutional arrangements. When adopting an action plan, Governments agree upon an organization to act as the permanent or interim secretariat of the action plan. Governments are also expected to decide upon the periodicity of intergovernmental meetings which are to be responsible for reviewing the progress of the agreed workplan and for approving new activities and the necessary budgetary support;

(e) Financial arrangements. UNEP, together with selected United Nations and other organizations, provides "seed money" or catalytic financing in the early stages of regional programmes. However, as a programme develops, it is expected that the Governments of the region will progressively assume full financial responsibility. Government financing is usually channelled through special regional trust funds to which Governments make annual contributions. These funds are administered by the

organization responsible for the secretariat functions of the action plan. In addition, Governments may contribute directly to the national institutions participating in the programme or to specific project activities.

6. It is essential to bear in mind that all components of a regional programme are interdependent. Assessment activities identify the problems that need priority attention in the region. Legal agreements are negotiated to strengthen co-operation among States in managing the identified problems. They also provide an important tool for national policy-makers to implement national control activities. Management activities, aimed at controlling existing environmental problems and preventing the development of new ones, are one of the means by which States fulfill their treaty obligations. Co-ordinated assessment activities then continue to assist Governments by providing scientific information by which to judge whether the legal agreements and management policies are effective.

7. This publication contains the texts of the three legal agreements that have been adopted for the protection, management and development of the marine and coastal environment of the Eastern African region. In considering the agreements, the comprehensive scope of environmental assessment and management activities that are to be carried out to support and make effective the Parties' legal commitments should be borne in mind.

8. The Conference of Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region was convened by the Executive Director of the United Nations Environment Programme (UNEP) pursuant to decision 8/13 C adopted on 29 April 1980 by the Governing Council of UNEP. The conference met at the headquarters of UNEP in Nairobi, Kenya, from 17 to 21 June 1985.

9. As a result of its deliberations, the conference adopted the following action plan and legal agreements:

Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;

Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;

Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region;

Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region.

10. The Government of the Republic of Kenya has been designated as the Depository for the convention and protocols.² UNEP has been designated as responsible for the secretariat functions of the action plan,

² Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, article 31.

convention and protocols.³ A list of signatories to the convention and protocols is presented in the appendix at the end of this document.

11. The convention is a comprehensive, umbrella agreement for the protection, management and development of the marine and coastal environment. It lists the sources of pollution which require control: pollution from ships, dumping, land-based sources and seabed activities together with airborne pollution. It also identifies environmental management issues for which co-operative efforts are to be made: specially protected areas, co-operation in cases of emergency, environmental damage from engineering activities, environmental impact assessment and scientific and technical co-operation. There is also an article on liability and compensation.

12. By ratifying a protocol, a party accepts more specific obligations to control pollution from a discrete source, or to co-operate in a specific aspect of environmental management. Under the convention no State or regional intergovernmental integration organization may become a contracting party to the convention without also becoming a party to at least one protocol.⁴ It is foreseen that additional protocols will be developed in the future.⁵

13. It should be noted that the adoption of the convention and protocols was facilitated by the preparatory work undertaken and the assistance provided by the Food and Agriculture Organization of the United Nations, the International Maritime Organization, and the International Union for the Conservation of Nature and Natural Resources.

³ Resolution on institutional arrangements adopted by the Conference of Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region.

⁴ Convention, article 25.

⁵ Convention, article 4.

**CONVENTION FOR THE PROTECTION,
MANAGEMENT AND DEVELOPMENT
OF THE MARINE AND COASTAL ENVIRONMENT
OF THE EASTERN AFRICAN REGION**

The Contracting Parties,

Fully aware of the economic and social value of the marine and coastal environment of the Eastern African region,

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic and ecological characteristics of the region which require special care and responsible management,

Recognizing further the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process,

Seeking to ensure that resource development shall be in harmony with the maintenance of the environmental quality of the region and the evolving principles of rational environmental management,

Realizing fully the need for co-operation amongst themselves and with competent international and regional organizations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region,

Recognizing the desirability of promoting the wider acceptance and national implementation of existing international environmental agreements,

Noting, however, that existing international conventions concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the Eastern African region,

Desirous to adopt a regional convention elaborated within the framework of the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region adopted at Nairobi on 21 June 1985,

Have agreed as follows,

Article 1

GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the Eastern African region, hereinafter referred to as "the Convention area" as defined in paragraph (a) of article 2.

2. Except as may be otherwise provided in any protocol to this Convention, the Convention area shall not include internal waters of the Contracting Parties.

Article 2

DEFINITIONS

For the purposes of this Convention:

(a) The "Convention area" shall be comprised of the marine and coastal environment of that part of the Indian Ocean situated within the Eastern African region and falling within the jurisdiction of the Contracting Parties to this Convention. The extent of the coastal environment to be included within the Convention area shall be indicated in each protocol to this Convention taking into account the objectives of the protocol concerned;

(b) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities, including fishing, impairment of quality for use of sea water and reduction of amenities;

(c) "Organization" means the body designated as responsible for carrying out secretariat functions pursuant to article 16 of this Convention.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or subregional agreements, for the protection and management of the marine and coastal environment of the Convention area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organization and, through the Organization, to all Contracting Parties to this Convention.

2. Nothing in this Convention or its protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.

3. This Convention and its protocols shall be construed in accordance with international law relating to their subject matter. Nothing in this Convention and its protocols shall prejudice the present or future claims and legal views of any Contracting Party concerning the nature and extent of its maritime jurisdiction.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly, take all appropriate measures in conformity with international law and in accordance with this Convention and those of its protocols in force to which they are party, to prevent, reduce and combat pollution of the Convention area and to ensure sound environmental management of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities.

2. The Contracting Parties shall co-operate in the formulation and adoption of protocols to facilitate the effective implementation of this Convention.

3. The Contracting Parties shall take all appropriate measures in conformity with international law for the effective discharge of the obligations prescribed in this Convention and its protocols and shall endeavour to harmonize their policies in this regard.

4. The Contracting Parties shall co-operate with the competent international, regional and subregional organizations to ensure the effective implementation of this Convention and its protocols. They shall assist each other in fulfilling their obligations under this Convention and its protocols.

5. In taking the measures referred to in paragraph 1, the Contracting Parties shall ensure that the application of such measures does not cause pollution of the marine environment outside the Convention area.

Article 5

POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by discharges from ships and, for this purpose, to ensure the effective implementation of the applicable international rules and standards established by, or within the framework of, the competent international organization.

Article 6

POLLUTION CAUSED BY DUMPING

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by dumping of wastes and other matter at sea from ships, aircraft, or man-made structures at sea, taking into account applicable international rules and standards and recommended practices and procedures.

Article 7

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall endeavour to take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources within their territories.

Article 8

POLLUTION FROM SEA-BED ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

Article 9

AIRBORNE POLLUTION

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 10

SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as rare, depleted, threatened or endangered species of wild fauna and flora and their habitats in the Convention area. To this end the Contracting Parties shall, in areas under their jurisdiction, establish protected areas, such as parks and reserves, and shall regulate and, where required and subject to the rules of international law, prohibit any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are established to protect. The establishment of such areas shall not affect the rights of other Contracting Parties and third States and in particular other legitimate uses of the sea.

Article 11

CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting Parties shall co-operate in taking all necessary measures to respond to pollution emergencies in the Convention area and to reduce or eliminate pollution or the threat of pollution resulting therefrom. To this end, the Contracting Parties shall, individually and jointly, develop and promote contingency plans for responding to incidents involving pollution or the threat thereof in the Convention area.

2. When a Contracting Party becomes aware of a case in which the Convention area is in imminent danger of being polluted or has been polluted, it shall immediately notify other States likely to be affected by such pollution, as well as competent international organizations. Furthermore, it shall inform, as soon as feasible, such other States and the Organization of any measures it has taken to minimize or reduce pollution or the threat thereof.

Article 12

ENVIRONMENTAL DAMAGE FROM ENGINEERING ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat environmental damage in the Convention area, in particular the destruction of marine and coastal ecosystems, caused by engineering activities such as land reclamation and dredging.

Article 13

ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the Contracting Parties shall, in co-operation with competent regional and international organizations if necessary, develop technical and other guidelines to assist the planning of their major development projects in such a way as to prevent or minimize harmful impacts on the Convention area.

2. Each Contracting Party shall assess, within its capabilities, the potential environmental effects of major projects which it has reasonable grounds to expect may cause substantial pollution of, or significant and harmful changes to, the Convention area.

3. With respect to the assessments referred to in paragraph 2, the Contracting Parties shall, if appropriate in consultation with the Organization, develop procedures for the dissemination of information and, if necessary, for consultations among the Contracting Parties concerned.

Article 14

SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Contracting Parties shall co-operate, directly or with the assistance of competent regional and international organizations, in scientific research, monitoring, and the exchange of data and other scientific information relating to the purposes of this Convention and its protocols.

2. To this end, the Contracting Parties shall develop and co-ordinate their research and monitoring programmes concerning pollution and natural resources in the Convention area and shall establish, in co-operation with competent regional and international organizations, a regional network of national research centres and institutes to ensure compatible results. With the aim of further protecting the Convention area, the Contracting Parties shall endeavour to participate in international arrangements for research and monitoring outside the Convention area.

3. The Contracting Parties shall co-operate, within their available capabilities, directly or through competent regional and international organizations, in the provision to other Contracting Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention area.

Article 15

LIABILITY AND COMPENSATION

The Contracting Parties shall co-operate, directly or with the assistance of competent regional and international organizations, with a view to formulating and adopting appropriate rules and procedures which are in conformity with international law in the field of liability and compensation for damage resulting from pollution of the Convention area.

Article 16

INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the United Nations Environment Programme as the secretariat of the Convention to carry out the following functions:

(a) to prepare and convene the meetings of Contracting Parties and conferences provided for in articles 17, 18 and 19;

(b) to transmit to the Contracting Parties the information received in accordance with articles 3, 11, 13 and 23;

(c) to perform the functions assigned to it by protocols to this Convention;

(d) to consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its protocols;

(e) to co-ordinate the implementation of co-operative activities agreed upon by the meetings of Contracting Parties;

(f) to ensure the necessary co-ordination with other regional and international bodies that the Contracting Parties consider competent;

(g) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

2. Each Contracting Party shall designate an appropriate authority to serve as the channel of communication with the Organization for the purposes of this Convention and its protocols.

Article 17

MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years. It shall be the function of the ordinary meetings of the Contracting Parties to keep under review the implementation of this Convention and its protocols and, in particular:

(a) To consider information submitted by the Contracting Parties under article 23;

(b) To adopt, review and amend annexes to this Convention and to its related protocols, in accordance with the provisions of article 20;

(c) To make recommendations regarding the adoption of any additional protocols or amendments to this Convention or its protocols in accordance with the provisions of articles 18 and 19;

(d) To establish working groups as required to consider any matters concerning this Convention and its protocols;

(e) To assess periodically the state of the environment in the Convention area;

(f) To consider co-operative activities to be undertaken within the framework of this Convention and its protocols, including their financial and institutional implications, and to adopt decisions relating thereto;

(g) To consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its protocols.

2. The Organization shall convene the first ordinary meeting of the Contracting Parties within nine months of the date on which the Convention enters into force in accordance with article 29.

3. Extraordinary meetings shall be convened at the request of any Contracting Party or upon the request of the Organization, provided that such requests are supported by a two-thirds majority of the Contracting Parties. It shall be the function of the extraordinary meeting of the Contracting Parties to consider only those items proposed in the request for the holding of the extraordinary meeting.

Article 18

ADOPTION OF PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 2 of article 4.

2. If so requested by a two-thirds majority of the Contracting Parties, the Organization shall convene a conference of plenipotentiaries for the purpose of adopting additional protocols to this Convention.

Article 19

AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Contracting Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties.

2. Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties to the protocol concerned.

3. The text of any proposed amendment shall be communicated by the Organization to all Contracting Parties at least ninety days before the opening of the conference of plenipotentiaries.

4. Any amendment to this Convention shall be adopted by a two-thirds majority vote of the Contracting Parties to the Convention which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Convention. Amendments to any protocol shall be adopted by a two-thirds majority vote of the Contracting Parties to the protocol which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the protocol.

5. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 4 shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least six of the Contracting Parties to this Convention or to the protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after the date on which that Party deposits its instrument.

6. After the entry into force of an amendment to this Convention or to a protocol, any new Contracting Party to this Convention or such protocol shall become a Contracting Party to the Convention or protocol as amended.

Article 20

ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to a protocol shall form an integral part of the Convention or, as the case may be, such protocol.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the adoption and entry into force of amendments to annexes to this Convention or to annexes to a protocol:

(a) Any Contracting Party may propose amendments to annexes to this Convention or annexes to any protocol at the meetings convened pursuant to article 17;

(b) Such amendments shall be adopted by a two-thirds majority vote of the Contracting Parties to the instrument in question;

(c) The Depositary shall without delay communicate the amendments so adopted to all Contracting Parties to this Convention;

(d) Any Contracting Party that is unable to accept an amendment to annexes to this Convention or to annexes to any protocol shall so notify the Depositary in writing within a period determined by the Contracting Parties concerned when adopting the amendment;

(e) The Depositary shall without delay notify all Contracting Parties of notifications received pursuant to the preceding subparagraph;

(f) On expiry of the period determined in accordance with subparagraph (d) above, the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that subparagraph;

(g) A Contracting Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party.

3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex, provided that, if it entails an amendment to the Convention or a protocol, the new annex shall not enter into force until such time as that amendment enters into force.

4. Any amendment to the Annex on Arbitration shall be proposed and adopted, and shall enter into force, in accordance with the procedures set out in article 19.

Article 21

RULES OF PROCEDURES AND FINANCIAL RULES

1. The Contracting Parties shall adopt rules of procedures for their meetings.

2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation in the co-operative activities undertaken for the purposes of this Convention and of protocols to which they are parties.

Article 22

SPECIAL EXERCISE OF THE RIGHT TO VOTE

In their fields of competence, the regional intergovernmental integration organizations referred to in article 26 shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention and to one or more protocols. Such organizations shall not exercise their rights to vote if the member States concerned exercise theirs and vice versa.

Article 23

TRANSMISSION OF INFORMATION

The Contracting Parties shall transmit regularly to the Organization information on the measures adopted by them in the implementation of this Convention and of protocols to which they are parties, in such form as the meetings of Contracting Parties may determine.

Article 24

SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute shall, upon common agreement of the Parties concerned, be submitted to arbitration under the conditions set out in the Annex on Arbitration.

Article 25

RELATIONSHIP BETWEEN THE CONVENTION AND ITS PROTOCOLS

1. No State or regional intergovernmental integration organization may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one protocol to the Convention. No State or regional intergovernmental integration organization may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Decisions concerning any protocol shall be taken only by the Contracting Parties to the protocol concerned.

Article 26

SIGNATURE

This Convention, the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region and the Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region shall be open for signature at Nairobi from 21 June 1985 to 20 June 1986 by any State invited as a participant to the Conference of Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, held at Nairobi from 17 June 1985 to 21 June 1985. They shall also be open for signature between the same dates by any regional intergovernmental integration organization exercising competence in fields covered by the Convention and such protocols and having at least one member State

which belongs to the Eastern African region, provided that such regional organization has been invited to participate in the Conference of Plenipotentiaries.

Article 27

RATIFICATION, ACCEPTANCE AND APPROVAL

This Convention and its protocols shall be subject to ratification, acceptance or approval by the States and organizations referred to in article 26. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Republic of Kenya which will assume the functions of Depositary.

Article 28

ACCESSION

1. This Convention and its protocols shall be open for accession by the States and organizations referred to in article 26 as from the day following the date on which the Convention or the protocol concerned is closed for signature.

2. After the entry into force of this Convention and of any protocol, any State or regional intergovernmental integration organization not referred to in article 26 may accede to the Convention and to any protocol, subject to prior approval by three-fourths of the Contracting Parties to the Convention or the protocol concerned.

3. Instruments of accession shall be deposited with the Depositary.

Article 29

ENTRY INTO FORCE

1. This Convention shall enter into force on the same date as the first protocol entering into force.

2. Any protocol to this Convention, except as otherwise provided in such protocol, shall enter into force on the ninetieth day following the date of deposit of the sixth instrument of ratification, acceptance, or approval of, or accession to, such protocol by the States referred to in article 26.

3. Thereafter, this Convention and any protocol shall enter into force with respect to any State or organization referred to in article 26 or article 28 on the ninetieth day following the date of deposit of its instruments of ratification, acceptance, approval or accession.

Article 30

WITHDRAWAL

1. At any time after three years from the date of entry into force of this Convention with respect to a Contracting Party, that Contracting Party may withdraw from this Convention by giving written notification to the Depositary.

2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after three years from the date of entry into force of such protocol with respect to that Contracting Party, withdraw from such protocol by giving written notification to the Depositary.

3. Withdrawal shall take effect one year after the date on which notification of withdrawal is received by the Depositary.

4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Contracting Party.

5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Contracting Party to any protocol to this Convention, shall be considered as also having withdrawn from the Convention itself.

Article 31

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Signatories and the Contracting Parties, as well as the Organization, of:

(a) the signature of this Convention and of its protocols and the deposit of instruments of ratification, acceptance, approval or accession;

(b) the date on which the Convention or any protocol will come into force for each Contracting Party;

(c) notification of withdrawal and the date on which it will take effect;

(d) the amendments adopted with respect to the Convention or to any protocol, their acceptance by the Contracting Parties and the date of their entry into force;

(e) all matters relating to new annexes and to the amendment of any annex.

2. The original of this Convention and of any protocol shall be deposited with the Depositary, the Government of the Republic of Kenya, which shall send certified copies thereof to the Signatories, the Contracting Parties and the Organization.

3. As soon as the Convention or any protocol enters into force, the Depositary shall transmit a certified copy of the instrument concerned to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Convention.

DONE at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in single copy in the English and French languages, the two texts being equally authentic.

ANNEX ON ARBITRATION

Article 1

Unless the agreement referred to in article 24 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with articles 2 to 10 below.

Article 2

The claimant party shall notify the Organization that the parties agree to submit the dispute to arbitration pursuant to paragraph 2 of article 24 of the Convention. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. The Organization shall forward the information thus received to all Contracting Parties to the Convention or to the protocol concerned.

Article 3

The arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months' period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention and the protocol or protocols concerned.

2. Any arbitral tribunal constituted under the provisions of this annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

2. The arbitral tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

Article 7

The arbitral tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

Article 9

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the arbitral tribunal.

Article 10

1. The arbitral tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

3. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.

**PROTOCOL CONCERNING PROTECTED AREAS
AND WILD FAUNA AND FLORA
IN THE EASTERN AFRICAN REGION**

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, done at Nairobi on 21 June 1985,

Conscious of the danger from increasing human activities which is threatening the environment of the Eastern African region,

Recognizing that natural resources constitute a heritage of scientific, cultural, educational, recreational and economic value that needs to be effectively protected,

Stressing the importance of protecting and, as appropriate, improving the state of the wild fauna and flora and natural habitats of the Eastern African region among other means by the establishment of specially protected areas in the marine and coastal environment,

Desirous of establishing close co-operation among themselves in order to achieve that objective,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(a) "Eastern African region" means the Convention area as defined in paragraph (a) of article 2 of the Convention. It shall also include the coastal areas of the Contracting Parties and their internal waters related to the marine and coastal environment;

(b) "Convention" means the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;

(c) "Organization" means the body referred to in paragraph (c) of article 2 of the Convention.

Article 2

GENERAL UNDERTAKING

1. The Contracting Parties shall take all appropriate measures to maintain essential ecological processes and life support systems, to preserve genetic diversity, and to ensure the sustainable utilization of harvested natural resources under their jurisdiction. In particular, the Contracting Parties shall endeavour to protect and preserve rare or fragile ecosystems as well as rare, depleted, threatened or endangered species of wild fauna and flora and their habitats in the Eastern African region.

2. To this end, the Contracting Parties shall develop national conservation strategies and co-ordinate, if appropriate, such strategies within the framework of regional conservation activities.

Article 3

PROTECTION OF WILD FLORA

The Contracting Parties shall take all appropriate measures to ensure the protection of the wild flora species specified in annex I. To this end, each Contracting Party shall, as appropriate, prohibit activities having adverse effects on the habitats of such species, as well as the uncontrolled picking, collecting, cutting or uprooting of such species. Each Contracting Party shall, as appropriate, prohibit the possession or sale of such species.

Article 4

SPECIES OF WILD FAUNA REQUIRING SPECIAL PROTECTION

The Contracting Parties shall take all appropriate measures to ensure the strictest protection of the endangered wild fauna species listed in annex II. To this end, each Contracting Party shall strictly regulate and, where required, prohibit activities having adverse effects on the habitats of such species. In particular, the following activities shall, where required, be prohibited with regard to such species:

- (a) All forms of capture, keeping or killing;
- (b) Damage to, or destruction of, critical habitats;
- (c) Disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation;
- (d) Destruction or taking of eggs from the wild or keeping these eggs even if empty;
- (e) Possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof.

Article 5

HARVESTABLE SPECIES OF WILD FAUNA

1. The Contracting Parties shall take all appropriate measures to ensure the protection of the depleted or threatened wild fauna species listed in annex III.

2. Any exploitation of such wild fauna species shall be regulated in order to restore and maintain the populations at optimum levels. Each Contracting Party shall develop, adopt and implement management plans for the exploitation of such species which may include:

(a) The prohibition of the use of all indiscriminate means of capture and killing and of the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species;

(b) Closed seasons and other procedures regulating exploitation;

(c) The temporary or local prohibition of exploitation, as appropriate, in order to restore viable population levels;

(d) The regulation, as appropriate, of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals;

(e) The safeguarding of breeding stocks of such species and their critical habitats in protected areas designated in accordance with article 8 of this Protocol;

(f) Exploitation in captivity.

Article 6

MIGRATORY SPECIES

The Contracting Parties shall, in addition to the measures specified in articles 3, 4 and 5, co-ordinate their efforts for the protection of migratory species listed in annex IV whose range extends into their territories. To this end, each Contracting Party shall ensure that, where appropriate, the closed seasons and other measures referred to in paragraph 2 of article 5 are also applied with regard to such migratory species.

Article 7

INTRODUCTION OF ALIEN OR NEW SPECIES

The Contracting Parties shall take all appropriate measures to prohibit the intentional or accidental introduction of alien or new species which may cause significant or harmful changes to the Eastern African region.

Article 8

ESTABLISHMENT OF PROTECTED AREAS

1. The Contracting Parties shall, where necessary, establish protected areas in areas under their jurisdiction with a view to safeguarding the natural resources of the Eastern African region and shall take all appropriate measures to protect those areas.

2. Such areas shall be established in order to safeguard:

(a) The ecological and biological processes essential to the functioning of the Eastern African region;

(b) Representative samples of all types of ecosystems of the Eastern African region;

(c) Populations of the greatest possible number of species of fauna and flora depending on these ecosystems;

(d) Areas having a particular importance by reason of their scientific, aesthetic, cultural or educational purposes.

3. In establishing protected areas, the Contracting Parties shall take into account, *inter alia*, their importance as:

(a) Natural habitats, and in particular as critical habitats, for species of fauna and flora, especially those which are rare, threatened or endemic;

(b) Migration routes or as wintering, staging, feeding or moulting sites for migratory species;

(c) Areas necessary for the maintenance of stocks of economically important marine species;

(d) Reserves of genetic resources;

(e) Rare or fragile ecosystems;

(f) Areas of interest for scientific research and monitoring.

Article 9

COMMON GUIDELINES, STANDARDS OR CRITERIA

The Contracting Parties shall, at their first meeting, and in co-operation with the competent regional and international organizations, formulate and adopt guidelines, standards or criteria concerning the identification, selection, establishment and management of protected areas.

Article 10

PROTECTION MEASURES

The Contracting Parties, taking into account the characteristics of each protected area, shall take, in conformity with international law, the measures required to achieve the objectives of protecting the area, which may include:

(a) The organization of a planning and management system;

(b) The prohibition of the dumping or discharge of wastes or other matter which may impair the protected areas;

(c) The regulation of pleasure craft activities;

(d) The regulation of fishing and hunting and of the capture of animals and harvesting of plants;

- (e) The prohibition of the destruction of plant life or animals;
- (f) The regulation of any act likely to harm or disturb the fauna or flora, including the introduction of non-indigenous animal or plant species;
- (g) The regulation of any activity involving the exploration or exploitation of the sea-bed or its subsoil or a modification of the sea-bed profile;
- (h) The regulation of any activity involving a modification of the profile of the soil or the exploitation of the subsoil of the coastal area;
- (i) The regulation of any archaeological activity and of the removal of any object which may be considered as an archaeological object;
- (j) The regulation of trade in and import and export of animals, parts of animals, plants, parts of plants and archaeological objects which originate in protected areas and are subject to measures of protection;
- (k) Any other measure aimed at safeguarding ecological and biological processes in protected areas.

Article 11

BUFFER AREAS

The Contracting Parties may strengthen the protection of a protected area by establishing, within areas under their jurisdiction, one or more buffer areas in which activities are less severely restricted while remaining compatible with the purposes of the protected area.

Article 12

TRADITIONAL ACTIVITIES

1. The Contracting Parties shall, in promulgating protective measures, take into account the traditional activities of their local populations in the areas to be protected. To the fullest extent possible, no exemption which is allowed for this reason shall be such as:

(a) to endanger either the maintenance of ecosystems protected under the terms of the present Protocol or the biological processes contributing to the maintenance of those ecosystems;

(b) to cause either the extinction of, or any substantial reduction in, the number of individuals making up the species of animal or plant populations within the protected ecosystems, or any ecologically connected species or populations, particularly migratory, endemic, rare, depleted, threatened or endangered species.

2. Contracting Parties which allow exemptions under paragraph 1 of this article with regard to protective measures shall inform the Organization accordingly.

Article 13

FRONTIER PROTECTED AREAS

1. If a Contracting Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of another Contracting Party, the two Contracting Parties shall, as necessary, consult each other with a view to reaching agreement on the measures to be taken and shall, among other things, examine the possibility of the establishment by the other Party of a corresponding protected area or buffer area,

2. If a Contracting Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a State which is not a party to this Protocol, the Party shall endeavour to work together with that State with a view to holding consultations as referred to in the preceding paragraph.

3. If a State which is not a party to this Protocol intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a Contracting Party to this Protocol, the latter shall endeavour to work together with that State with a view to holding consultations.

Article 14

PUBLICITY AND NOTIFICATION

The Contracting Parties shall give appropriate publicity to the establishment of protected areas, in particular to their boundaries and the regulations applying thereto. Such information shall be transmitted to the Organization which shall compile and maintain a current directory of protected areas in the Eastern African region. The Contracting Parties shall provide the Organization with all information necessary for that purpose.

Article 15

PUBLIC INFORMATION AND EDUCATION

The Contracting Parties shall endeavour to inform the public as widely as possible of the significance and interest of protected areas and the protection of wild fauna and flora and the scientific knowledge which may be gained from them. Such information should have an appropriate place in education programmes concerning the environment, archaeology and history. The Contracting Parties should also endeavour to promote the participation of their public and their nature conservation organizations in the protection of the areas and wild fauna and flora concerned.

Article 16

REGIONAL CO-OPERATION

The Contracting Parties shall establish a regional programme to co-ordinate the selection, establishment, and management, of protected areas and the protection of wild fauna and flora with a view to creating a

representative network of protected areas in the Eastern African region. There shall be regular exchanges of information concerning the characteristics of the protected areas and wild fauna and flora, the experience acquired and the problems encountered.

Article 17

SCIENTIFIC AND TECHNICAL RESEARCH

1. The Contracting Parties shall encourage and develop scientific and technical research on their protected areas and on the ecosystems, wild fauna and flora, and archaeological heritage of the Eastern African region.

2. The Contracting Parties shall exchange scientific and technical information concerning current or planned research and their results. They shall, to the fullest extent possible, co-ordinate their research, and define jointly or standardize the scientific methods to be applied in the selection, management and monitoring of protected areas.

Article 18

EXCHANGE OF INFORMATION

1. In applying the principles of co-operation set forth in articles 16 and 17, the Contracting Parties shall forward to the Organization:

(a) Comparable information for monitoring the biological development of the Eastern African region;

(b) Inventories, publications and information of a scientific, administrative and legal nature, in particular:

- (i) On the measures taken by the Contracting Parties in pursuance of this Protocol for the protection of the protected areas and wild fauna and flora;
- (ii) On the wild fauna and flora present in the protected areas or listed in the annexes to this Protocol;
- (iii) On any threats to protected areas or wild fauna and flora, especially those threats which may come from sources outside their control;
- (iv) On any changes in the delimitation or legal status of a protected area or the suppression of all or part of such an area.

2. The Contracting Parties shall designate persons responsible for protected areas. Those persons shall meet at least once every two years to discuss matters of joint interest and especially to propose to the Contracting Parties recommendations concerning scientific, administrative and legal measures to be adopted to improve the application of the provisions of this Protocol.

Article 19

TECHNICAL CO-OPERATION

The Contracting Parties shall co-operate, directly or with the assistance of competent regional or international organizations, in the provision to other Contracting Parties of technical and other assistance in fields related to the selection, establishment and management of protected areas and the protection of wild fauna and flora. Such assistance should relate, in particular, to the training of scientific, technical and managerial personnel and scientific research.

Article 20

ALTERATION OF THE BOUNDARIES OF OR WITHDRAWAL OF PROTECTION FROM, PROTECTED AREAS

Changes in the delimitation or legal status of a protected area, or the suppression of all or part of such an area, shall not take place unless for significant reasons, taking into account the need to protect the environment and according to the rules and obligations provided in this Protocol.

Article 21

MEETINGS OF THE PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may also hold extraordinary meetings as provided for in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties to this Protocol, in particular:

- (a) To keep under review the implementation of this Protocol;
- (b) To consider the efficacy of the measures adopted and to examine the need for other measures, in particular in the form of annexes in conformity with the provisions of article 20 of the Convention;
- (c) To adopt, review and amend as required any annex to this Protocol;
- (d) To monitor the establishment and development of the network of protected areas referred to in article 16, to adopt guidelines to facilitate the establishment and development of that system and to increase co-operation among the Contracting Parties;
- (e) To consider the recommendations made by the meetings of the persons responsible for the protected areas, as provided by article 18, paragraph 2;
- (f) To consider, as appropriate, information transmitted by the Contracting Parties to this Protocol to the Organization under article 23 of the Convention.

Article 22

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX I

Protected species of wild flora

Uvariadendron gorgonis Verdc. (Kenya)
Grevia madagascariensis Baill. subsp. *keniensis* Verdc. (Kenya)
Saintpaulia rupicola B.L. Burti (Kenya)
Beccariophœnix madagascariensis Jumelle & Perr. (Madagascar)
Crinum mauritianum Lodd. (Mauritius)
Tetrataxis salicifolia (Thouars ex Tul.) Baker (Mauritius)
Zanthoxylum paniculatum Balf. f. (Mauritius, Rodrigues)
Hibiscus liliiflorus Cav. (Mauritius, Rodrigues)
Lodoicea maldivica (J. F. Gmelin) Pers. (Seychelles)
Toxocarpus schimperianus Hemsley (Seychelles)
Peponium sublitorale C. Jeffrey & J. S. Page (Seychelles, Aldabra)

ANNEX II

Species of wild fauna requiring special protection

MAMMALS

Zanzibar red colobus (*Colobus badius kirkii*)
Zanzibar suni (*Neotragus moschatus moschatus*)
Mauritius fruit bat (*Pteropus niger*)
Rodrigues fruit bat (*Pteropus rodricensis*)
Dugong (*Dugong dugon*)
Humpback whale (*Megaptera novaeangliae*)
Blue whale (*Balaenoptera musculus*)

Lemurs (*Lemur* spp.)
Nosy Bé sportive lemur (*Lepilemur dorsalis*)
Coquerel's mouse lemur (*Microcebus coquereli*)
Aye aye (*Daubentonia madagascariensis*)

BIRDS

Sokoke pipit (*Anthus sokokensis*)
Sokoke scops owl (*Otus ireneae*)
Amani sunbird (*Anthreptes pallidigaster*)
East coast akalat (*Sheppardia gunningi gunningi*)
Pemba scops owl (*Otus rutilus pembaensis*)
Wattled crane (*Bugeranus carunculatus*)
Clarke's weaver (*Ploceus gollandi*)
Spotted ground thrush (*Turdus fisheri fisheri*)
Aldabra white-throated rail (*Dryolimnas cuvieri aldabranus*)
Aldabra brush warbler (*Nesillas aldabranus*)
Aldabra sacred ibis (*Threskiornis aethiopica*)
Aldabra kestrel (*Falco newtoni aldabranus*)
Mauritius kestrel (*Falco punctatus*)
Seychelles magpie robin (*Copsychus sechellarum*)
Seychelles fody (*Foudia flavicans*)
Rodriquez fody (*Foudia flavicans*)
Seychelles brush warbler (*Acrocephalus sechellensis*)
Seychelles turtle dove (*Streptopelia picturata rostrata*)
Madagascar fish eagle (*Haliaeetus vociferoides*)
Reunion cuckoo-shrike (*Coracina newtoni*)
Madagascar heron (*Ardea humbloti*)
Grand Comoro scops owl (*Otus pauliani*)
Grand Comoro flycatcher (*Humblotia flavirostris*)
Mount Karthala white-eye (*Zosterops mouroniensis*)
Grand Comoro drongo (*Dicrurus fuscipennis*)
Mayotte drongo (*Dicrurus waldeni*)
Mascarene black petrel (*Pterodroma aterrima*)
Taita thrush (*Turdus helleri*)
Hinde's pied babbler (*Turdoides hindei*)
Papyrus yellow warbler (*Chloropeta gracilirostris*)
Tana river cisticola (*Cisticola restricta*)
Turner's eremomela (*Eremomela turneri*)
Chapin's flycatcher (*Muscicapa lendu*)
Madagascar little grebe (*Tachybaptus pelzelni*)
Alaotra grebe (*Tachybaptus rufolavatus*)
Madagascar teal (*Anas bernieri*)
Madagascar pochard (*Aythya innotata*)
Madagascar serpent eagle (*Eutriorchis astur*)
White-breasted mesite (*Mesoenas variegata*)
Brown mesite (*Mesoenas unicolor*)
Subdesert mesite (*Monias benschi*)

Slender-billed flufftail (*Sarothrura watersi*)
 Sakalava rail (*Amaurornis olivieri*)
 Madagascar plover (*Charadrius thoracicus*)
 Snail-eating coua (*Coua delalandei*)
 Madagascar red owl (*Tyto soumagnei*)
 Short-legged ground-roller (*Brachypteracias leptosomus*)
 Scaly ground-roller (*Brachypteracias squamiger*)
 Rufous-headed ground-roller (*Atelornis crossleyi*)
 Long-tailed ground-roller (*Uratelornis chimaera*)
 Yellow-bellied sunbird-asisy (*Neodrepanis hypoxantha*)
 Appert's greenbul (*Phyllastrephus apperti*)
 Dusky greenbul (*Phyllastrephus tenebrosus*)
 Grey-crowned greenbul (*Phyllastrephus cinereiceps*)
 Van Dam's vanga (*Xenopirostris dumii*)
 Pollen's vanga (*Xenopirostris polleni*)
 Benson's rockthrush (*Monticola bensoi*)
 Madagascar yellowbrow (*Crossleyia xanthophrys*)
 Red-tailed newtonia (*Newtonia fanovanae*)
 Pink pigeon (*Nesænas mayeri*)
 Mauritius parakeet (*Psittacula eques*)
 Mauritius cuckoo-shrike (*Coracina typica*)
 Mauritius black bulbul (*Hypsipetes olivaceus*)
 Rodrigues warbler (*Acrocephalus rodericanus*)
 Mauritius olive white-eye (*Zosterops chloronothus*)
 Mauritius fody (*Foudia rubra*)
 Cape vulture (*Gyps coprotheres*)
 Swynnerton's forest robin (*Swynnertonia swynnertoni*)
 Dappled mountain robin (*Modulatrix orostruthus*)
 Thyolo atelthe (*Aelthe choloensis*)
 Long-billed apalis (*Apalis moreaui*)
 Seychelles kestrel (*Falco araea*)
 Seychelles scops owl (*Otus insularis*)
 Seychelles swiftlet (*Collocalia elaphra*)
 Seychelles black paradise flycatcher (*Terpsiphone corvina*)
 Seychelles white-eye (*Zosterops modestus*)
 Somalia pigeon (*Columba oliviae*)
 Ash's lark (*Mirafrax ashi*)
 Somali long-clawed lark (*Heteromirafrax archeri*)
 Warsangli linnnet (*Acanthis johannis*)
 Shoebill (*Balaeniceps rex*)
 Nduk eagle owl (*Bubo vosseleri*)
 Uluguru bush-shrike (*Malaconotus alius*)
 Usambara ground robin (*Dryocichloides montanus*)
 Iringa ground robin (*Dryocichloides lowei*)
 Karamoja apalis (*Apalis karamojae*)
 Kungwe apalis (*Apalis argentea*)
 Mrs. Morcau's warbler (*Bathmocercus winifredae*)

Banded green sunbird (*Anthreptes rubritorques*)
Rufous-winged sunbird (*Nectarinia rufipennis*)
Tanzanian mountain weaver (*Ploceus nicolli*)

REPTILES

Olive ridley turtle (*Lepidochelys olivacea*)
Loggerhead turtle (*Caretta caretta*)
Leatherback turtle (*Dermochelys coriacea*)
Serpent island gecko (*Cyrtodactylus serpensin sula*)
Round island day gecko (*Phelsuma guentheri*)
Round island skink (*Leiopisma telfairii*)
Skink (*Gongylomorphus bojerii*)
Round island boa (*Bolyeria multocarinata*)
Round island keel-scaled boa (*Casarea dussumieri*)
Aldabra giant tortoise (*Dipsoschelys elephantina*)
Madagascar tortoise (*Geochelone yniphora*)

MOLLUSCS¹

Triton's trumpet (*Charonia tritonica*)
Commercial trochus (*Trochus niloticus*)
Fluted giant clam (*Tridacna squamosa*)
Small giant clam (*Tridacna maxima*)
Horse's hoof clam (*Hippopus hippopus*)
Pearl oyster (*Pinctada spp.*)

CRUSTACEANS

Coconut crab (*Birgus latro*)

CNIDARIANS

Black coral (*Antipathes dichotoma*)
Whip coral (*Cirrhopathes spp.*)

INSECTS

Tenebrionid beetle (*Pulposipus herculeanus*)
Comoro graphium butterfly (*Graphium levassari*)

ANNEX III

Harvestable species of wild fauna requiring protection

Cane rats (*Thryonomys spp.*)
African Elephant (*Loxodonta africana*)
Rock hyrax (*Procavia capensis*)
Yellow-spotted hyrax (*Heterohyrax brucei*)

Tree hyrax (*Dendrohyrax arboreus*)
Burchell's zebra (*Equus burchelli*)
Hippopotamus (*Hippopotamus amphibius*)
Warthog (*Phacochoerus aethiopicus*)
Bush pig (*Potamochoerus porcus*)
Lesser kudu (*Tragelaphus imberbis*)
Common waterbuck (*Kobus ellipsiprymnus*)
Topi (*Damaliscus korrigum*)
Lichtenstein's hartebeest (*Alcelaphus lichtensteini*)
Wildebeest (*Connochaetes taurinus*)
Impala (*Aepyceros melampus*)
Grimm's duiker (*Sylvicapra grimmia*)
Buffalo (*Syncerus caffer*)
Spiny lobsters (*Panulirus spp.*)
Green turtle (*Chelonia mydas*)
Hawksbill turtle (*Eretmochelys imbricata*)

ANNEX IV

Protected migratory species

MAMMALS

Dugong (*Dugong dugon*)
Humpback whale (*Megaptera novaeangliae*)
Blue whale (*Balaenoptera musculus*)

REPTILES

Green turtle (*Chelonia mydas*)
Hawksbill turtle (*Eretmochelys imbricata*)
Olive ridley turtle (*Lepidochelys olivacea*)
Loggerhead turtle (*Caretta caretta*)
Leatherback turtle (*Dermochelys coriacea*)

**PROTOCOL CONCERNING CO-OPERATION
IN COMBATING MARINE POLLUTION IN CASES OF
EMERGENCY IN THE EASTERN AFRICAN REGION**

The Contracting Parties to the present Protocol,

Being Contracting parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African region, done at Nairobi on 21 June 1985,

Conscious that the use of the Eastern African region and adjacent areas for vessel traffic, oil production and refining activities poses the risk of major spillages of oil and other harmful substances and the subsequent serious threat to the marine and coastal environment and related interests of the States of the region,

Noting the International Maritime Organization's Assembly Resolution A.448(XI) which recognizes that regional anti-pollution arrangements are a valuable and economical way of supplementing national arrangements for the effective combating of major spillages of oil and other harmful substances in cases of emergency,

Recognizing that in the event of major spillages of oil and other harmful substances or threat thereof, prompt and effective action should be taken, initially at the local level, to mitigate the effects or eliminate the threat,

Further recognizing that for major spillages mutual assistance, and in some cases, assistance from the international community at large will be required, and that such assistance should be organized in advance so as to be timely and effective,

Aware of existing agreements and arrangements which have already been concluded in other regions for co-operation in dealing with spillages of oil and other harmful substances,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(a) "Eastern African region" means the Convention area as defined in paragraph (a) of article 2 of the Convention. It shall also include the coastal areas of the Contracting Parties and their internal waters related to the marine and coastal environment;

(b) "Convention" means the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;

(c) "Organization" means the body referred to in paragraph (c) of article 2 of the Convention;

(d) "Marine pollution incident" means a discharge or spillage of oil or other harmful substance into the marine environment, or a significant threat of such a discharge or spillage, however caused, of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating the threat;

(e) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

(f) "Harmful substances" means any substance other than oil which, if introduced into the sea creates hazards to human health, harms living resources and marine life, damages amenities or interferes with other legitimate uses of the sea;

(g) "Related interests" means the interests of a Contracting Party directly affected or threatened by oil or other harmful substances and concerning, among others:

- (i) The health of the coastal population;
- (ii) Maritime, coastal, port or estuarine activities;
- (iii) Fishing activities and the conservation of natural resources;
- (iv) The historical and tourist appeal of the area in question, including water sports and recreation.

Article 2

APPLICATION

This Protocol applies to marine pollution incidents which have resulted in or which pose a significant threat of, pollution to the marine and coastal environment of the Eastern African region or which adversely affect the related interests of one or more of the Contracting Parties.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, both preventive and remedial, for the protection of the marine and coastal environment of the Eastern African region from marine pollution incidents.

2. The Contracting Parties shall, within their capabilities, establish and maintain the means of responding to marine pollution incidents and shall endeavour to reduce the risk thereof. Such means shall include the

enactment, as necessary, of relevant legislation, the preparation of contingency plans, the identification and development of the capability to respond to marine pollution incidents and the designation of a national authority with overall responsibility for the implementation of this Protocol.

Article 4

EXCHANGE OF INFORMATION

Each Contracting Party shall periodically exchange with the other Contracting Parties up-to-date information relating to the implementation of this Protocol, including the identity of the authorities responsible for such implementation, and information on their laws, regulations, institutions and operational procedures relating to the prevention of a marine pollution incident and to the means of reducing and combating the harmful effects of such incidents.

Article 5

COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, MARINE POLLUTION INCIDENTS

1. Each Contracting Party shall establish appropriate procedures to ensure that information regarding marine pollution incidents is reported as rapidly as possible, and shall, *inter alia*:

(a) Require its appropriate officials, masters of ships flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it any marine pollution incident involving their ships or facilities;

(b) Request masters of all ships and pilots of all aircraft operating in the vicinity of its coasts to report to it any marine pollution incident of which they are aware.

2. Guidelines to be followed in preparing the report to be made pursuant to paragraph 1 are given in the annex to this Protocol.

3. In the event of receiving a report regarding a marine pollution incident, a Contracting Party shall immediately notify all other Contracting Parties whose interests are likely to be affected by such an incident, as well as the flag State of any ship involved in it. The Contracting Party shall also inform the Organization and the competent international organizations. Furthermore, as soon as feasible, it shall inform such Contracting Parties, the Organization and competent international organizations of measures it has taken to minimize or reduce marine pollution or the threat thereof.

Article 6

MUTUAL ASSISTANCE

1. Each Contracting Party shall render assistance, within its available capabilities, to other Contracting Parties which request assistance of it in the event of a marine pollution incident, as appropriate, within the

framework of joint response action agreed between or among the requesting and assisting Contracting Parties and taking into account, in the event of a marine pollution incident involving harmful substances other than oil, the available technology.

2. Each Contracting Party shall, subject to its laws and regulations, facilitate the movement into, through and out of its territory of technical personnel, equipment and material necessary for responding to a marine pollution incident.

Article 7

OPERATIONAL MEASURES

Each Contracting Party shall, within its capabilities, take all necessary steps, including those outlined below, to respond to a marine pollution incident:

(a) Make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;

(b) Promptly communicate notification of the incident pursuant to article 5;

(c) Promptly determine its ability to take effective measures to respond to the incident and the assistance that might be required;

(d) Consult, as appropriate, with other Contracting Parties concerned in the process of determining the necessary response to the incident;

(e) Take the measures necessary to prevent, reduce or eliminate the effects of the incident, including monitoring of the situation.

Article 8

SUBREGIONAL ARRANGEMENTS

1. With a view to facilitating the implementation of the provisions of this Protocol, and in particular articles 6 and 7, the Contracting Parties shall conclude appropriate bilateral or multilateral subregional arrangements.

2. Contracting Parties to this Protocol which enter into such subregional arrangements shall notify the other Contracting Parties, as well as the Organization, of the conclusion and the content of such arrangements.

Article 9

INSTITUTIONAL ARRANGEMENTS

The Contracting Parties designate the Organization to carry out, in co-operation with the International Maritime Organization, the following functions:

(a) Assisting Contracting Parties, upon request, in the following areas:

(i) The preparation, periodic review and updating of the contingency plans referred to in paragraph 2 of article 3, with a view, *inter alia*, to promoting the compatibility of the plans of the Contracting Parties; and

(ii) Publicizing training courses, programmes and material.

(b) Assisting the Contracting Parties, upon request, on a regional basis, in the following areas:

(i) The co-ordination of regional emergency response activities; and

(ii) The provision of a forum for discussion of such activities and related topics.

(c) Establishing and maintaining liaison with:

(i) Competent regional and international organizations; and

(ii) Appropriate entities conducting activities in the Eastern African region including major oil producers, refiners, clean-up contractors and co-operatives for marine pollution incidents, and transporters of oil and other harmful substances.

(d) Maintaining a current inventory of equipment, materials and expertise readily available in the Eastern African region to deal with a marine pollution incident;

(e) Disseminating information on the prevention and combating of marine pollution incidents;

(f) Identifying or maintaining means for marine emergency response communications;

(g) Encouraging research by the Contracting Parties, competent international organizations and appropriate entities on marine pollution-related matters, including the environmental impacts of spillages of oil and other harmful substances and materials and techniques used for combating such spillages;

(h) Assisting the Contracting Parties in the exchange of information pursuant to article 4; and

(i) Preparing reports and carrying out other duties assigned to it by the Contracting Parties.

Article 10

MEETINGS OF THE CONTRACTING PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may hold extraordinary meetings as provided for in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties:

(a) To review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness; and

(b) To consider measures to improve co-operation under this Protocol including, in accordance with article 19 of the Convention, possible amendments to this Protocol.

Article 11

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE AT Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX

Guidelines for the report to be made pursuant to article 5, paragraph 1, of this Protocol

1. Each report shall, as far as possible, contain:

(a) The identification of the source of pollution (e.g. identity of the ship, fixed or floating platform or any other structure), where appropriate;

(b) The geographic position, time and date of the observation or of the occurrence of the incident;

(c) The marine meteorological conditions prevailing in the area.

2. Each report shall contain, whenever possible, in particular:

(a) A clear indication or description of oil or other harmful substances involved;

(b) A statement or estimate of the quantities, concentrations, nature (oil or a noxious liquid, solid or gaseous substance) and likely conditions of oil or other harmful substances discharged or likely to be discharged into the sea.

3. Each report shall be supplemented, as necessary, by any relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.

4. Any of the persons referred to in article 5, paragraph 1, of this Protocol shall:

(a) Supplement as far as possible the initial report, as necessary, with information concerning further developments; and

(b) Comply as fully as possible with requests from affected States for additional information.

APPENDIX

**Status as at 22 June 1985 of the Convention for the Protection, Management and Development
of the Marine and Coastal Environment of the Eastern African Region and related protocols**

<i>Parties</i>	<i>Convention</i>		<i>Protocol on Protected Areas^a</i>		<i>Protocol on Pollution Emergencies^b</i>	
	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>
Comoros	—	—	—	—	—	—
France.....	22 June 85	—	22 June 85	—	22 June 85	—
Kenya	—	—	—	—	—	—
Madagascar.....	22 June 85	—	22 June 85	—	22 June 85	—
Mauritius.....	—	—	—	—	—	—
Mozambique	—	—	—	—	—	—
Seychelles	22 June 85	—	22 June 85	—	22 June 85	—
Somalia	22 June 85	—	22 June 85	—	22 June 85	—
United Republic of Tanzania	—	—	—	—	—	—
European Economic Community	—	—	—	—	—	—

^a Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region.

^b Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region.

