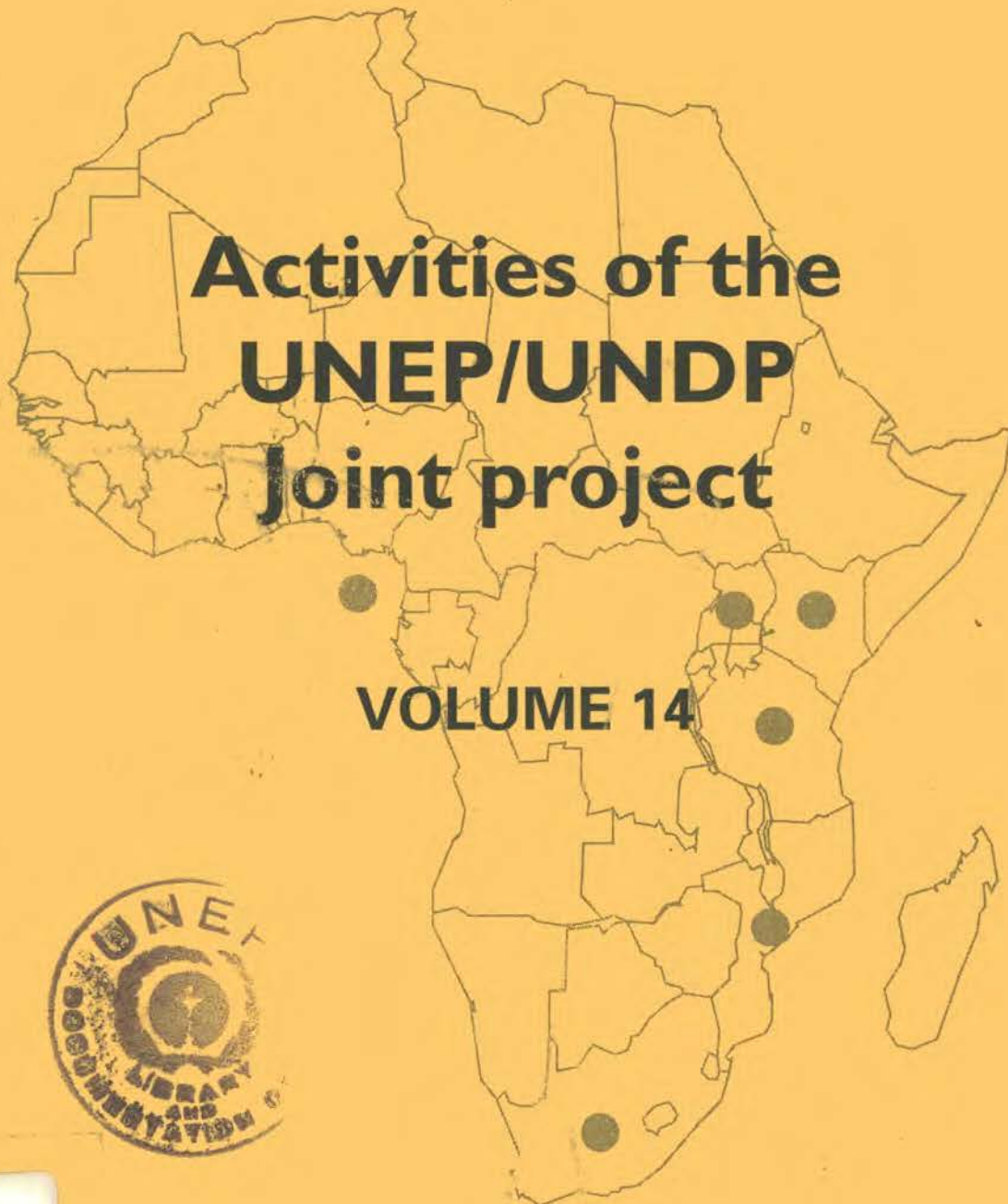




# UNEP/UNDP Joint Project on Environmental Law and Institutions in Africa



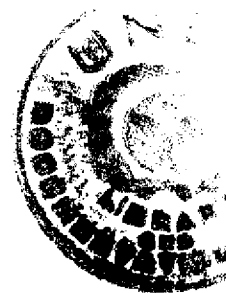
September 1994 - October 1997

**JOINT UNEP/UNDP ENVIRONMENTAL LAW AND  
INSTITUTIONS PROJECT IN AFRICA**

**MID-TERM INTERNAL PROJECT REVIEW REPORT**

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## LIST OF ACRONYMS

<b>ADB</b>	African Development Bank
<b>AMCEN</b>	African Ministerial Conference on Environment
<b>CILSS</b>	Interstate Committee on Drought in the Sahel
<b>CITES</b>	Convention on International Trade in Endangered Species
<b>CV</b>	Curriculum Vitae
<b>EA</b>	East Africa
<b>ECA</b>	Economic Commission for Africa
<b>ECOWAS</b>	Economic Community of West African States
<b>EIA</b>	Environmental Impact Assessment
<b>ELI/PAC</b>	Environmental Legislation and Institutions Program Activity Center
<b>EMA</b>	Environmental Management Act
<b>DANIDA</b>	Danish International Development Agency
<b>DDC</b>	District Development Council
<b>FAL</b>	Final Act of Lagos
<b>FAO</b>	Food and Agricultural Organization
<b>GEF</b>	Global Environmental Facility
<b>IGADD</b>	Intergovernmental Authority for Drought and Development
<b>IUCN</b>	International Union of the Conservation of Nature
<b>LFA</b>	Logical Framework Approach
<b>LPA</b>	Lagos Plan of Action
<b>LVMP</b>	Lake Victoria Management Programme
<b>MOREA</b>	Ministry of Research and Environmental Affairs

<b>NEAP</b>	National Environmental Action Programme
<b>NEMA</b>	National Environmental Management Agency
<b>NCC</b>	National Coordinating Committee
<b>NORAD</b>	Norwegian Agency for Development
<b>NSC</b>	National Steering Committee
<b>NGO</b>	Non-Governmental Organization
<b>PMC</b>	Project Monitoring Committee
<b>PSC</b>	Project Steering Committee
<b>ROA</b>	Regional Bureau for Africa
<b>SDA</b>	Sustainable Development Advisor
<b>SIDA</b>	Swedish International Development Agency
<b>SRCC</b>	Sub-regional Coordinating Committee
<b>TM</b>	Task Manager
<b>TOR</b>	Terms of Reference
<b>UMA</b>	Union Magreb Arab
<b>UNCED</b>	United Nations Conference on Environment and Development
<b>UNDP</b>	United Nations Development Program
<b>UNDP/CO</b>	United Nation Development Programme Country Office
<b>UNEP</b>	United Nations Environmental Programme
<b>UNOPS</b>	United Nations Office for Project Services
<b>USAID</b>	United States Agency for International Development
<b>WB</b>	World Bank

## **EXECUTIVE SUMMARY**

### **1. INTRODUCTION**

This is a report of a review of the UNEP/UNDP Environmental Legislation and Institutions Project in Africa being implemented with the collaboration of the two agencies and the cooperation of beneficiary governments and cooperating agencies ie- FAO, WB and IUCN. The Project is funded by the Dutch government in the amount of US \$ 5,000,00 and has officially started on November 1993.

The purpose of the evaluation is to get, for the first time, an overall assessment of how the project is progressing, and based on such an overall review, to get an indication of aspects of the project which require adjustments or changes in order to enhance the benefits that beneficiary countries will get from the project activities.

The review was undertaken by one consultant over the period April 21 to May 30, 1997. The consultant reviewed a wide range of project related documents, interviewed a broad spectrum of project stakeholders both in Nairobi, Malawi, Uganda and New York focussing. The project has not been easy to evaluate for impact because it deals with process matters.

The results of the report are divided into eight major sections consisting of an Introduction (Section 1), Background or Description of the Project (Section 2), Purpose of the Evaluation (Section 3), Scope of the Review and Methodology Used (Section 4), Assessment (Section 5), Conclusions (Section 6), Lessons Learnt (Section 7) and Recommendations (Section 8).

### **2. FINDINGS**

The rationale for the project is sound. The project is a logical consequence of the decisions reached within the framework of Agenda 21. Donor policy and the needs of African countries are in harmony. The idea of implementing the project through interagency cooperation between the core agencies -ie UNEP/UNDP in order to utilize their comparative advantages is also, in principle, sound.

It fulfills the felt needs of the beneficiary countries.

The Joint Project document, however, has not given much attention to implementational constraints that may arise from this novel effort at interagency cooperation in terms of incompatible operational modalities and structural differences. This has led to problems of delays in the clarification of operational modalities particularly as regards prompt financial flow to the sub-projects in the beneficiary countries. The project document also included as part of project implementation activities measures of preparatory nature which also took some time.

Prior anticipation would have minimized the major causes for implementational constraints

encountered later and enabled the collaborating core agencies to, among others, select a different implementation arrangement.

As a result of these implementation of project activities at sub-project levels had a slow start.

Neither did the project document involve the prospective beneficiary countries in the design of the project. Finally, the project document did not provide in the activities it envisaged for project implementation certain objectives such as capacity building at the grass roots levels.

At the start up period of project implementation the PSC's contribution was very vital. Taking in to account the requirements in the joint project document it was appropriate for the PSC to discuss and decide on some of the issues at the start up of the project such as the selection of the beneficiary countries, work plans and the establishment of the TM's office. This role was envisaged for it in the project document for the project start up period. The PSC meetings have also helped to develop and clarify the collaborative process by means of which it was possible to avoid duplication of efforts and identify areas of complementarity.

The fact that decisions at the PSC level are made on consensus basis may have also contributed to make the decision making process lengthy.

The PMC has become a very useful mechanism in assisting Project Management Office in Nairobi in coordinating project implementation and taking action on matters that need urgent attention. It has the advantage of being small consisting of the core agencies and the donor all of whom are close at hand in Nairobi. The PMC could be enlarged as and when necessary to function as a consultative forum at which beneficiary governments and relevant UNDP/CO SDAs may participate.

Despite initial upsets project implementation is now going on at a satisfactory rate after a serious effort undertaken to sort out the major constraints that were causing delays in November 1995. The communications channels that have been worked out in the November 1995 consultative meeting have been very helpful. There is considerable improvement in communications and the flow of funds has become more predictable. Since then a number of activities have been undertaken and completed. Other activities are currently being carried out at reasonable pace. Future Activities are also being planned.

Major constraints before the November 1995 consultative meeting which caused delay were the following:-

- the process of selecting beneficiary countries;
- the process of working out modalities for work plan preparation and actual preparation of such work plans;



- the process of appointment of the TM and other staff of the TM's office.
- the long time taken to finalize UNDP's part of project document which, in turn, resulted, in delays regarding financial requests, fund authorization and release in the period between July and November 1995. This was the period when Capacity 21 has just transmitted the UNDP project document to UNOPS and UNOPS was revising the project and making it ready for implementation.
- difficulties in getting together the three sub-regional project countries to coordinate in the implementation of the project and they were not all at the same level of development in terms of the development of environmental framework legislation and other sectoral laws and implementation regulations.
- the fact that UNDP/COs were not properly briefed by UNDP about their roles in the project implementation.

From the project activities so far undertaken the following has been concluded about the degree of attainment of the major objectives of the project.

1. In the process of reviewing national environmental laws the area of international instruments is being addressed. Through such review countries are becoming more informed about international instruments which may be of interest to them as well as the need to incorporate in their environmental legislation of provisions essential for implementing obligations in international instruments that they have already ratified. There is, also, a workshop that is scheduled to take place in Maputo at the end of June which is designed to familiarize participants to the CBD and related agreements such as CITES etc.
2. The project approach of imparting skills and knowledge pertaining to the review and drafting of environmental laws to nationals of the beneficiary countries through a hands on experience is sound and having the expected impact. The workshops and seminars that have been undertaken by the project so far have proved to be important awareness and capacity building measures.
3. The modality of carrying out the technical assistance to the beneficiary countries such as giving the countries the opportunity to choose their own priorities for action and indeed undertaking the performance of the tasks themselves with occasional backstopping only when it is required is creating the expected ownership.

4. The consensus building workshops have served as a means of creating awareness, participation by expressing views and ownership as a result. The experience of the countries visited indicated they have been effective processes of creating broader awareness, participation and final ownership of the sub-projects.
5. The effort to have as diverse stakeholders as possible participating in the consensus building workshops has not been unsatisfactory but there is always room for improvement. For example, the participation of NGOs requires attention both in terms of numbers and type. Those NGOs which are actually implementing environmental management activities on the ground need to be given consideration.

Otherwise the approach is sound and should be continued despite the obviously longer time span required under this process compared to the previous exclusive approaches.

The management structures at the sub-project levels are working reasonably well although there are concerns from governments about the PSC decision not to approve salary top-ups for sub-project coordinators.

The NLTFs are very useful mechanisms in the process of creating ownership. It is felt that it will be necessary to keep them functional and make their views have the necessary weight. They should have political backing and, where possible even, a legal status. The NCCs should also be useful although in the case of Uganda they have not been full used.

Up to November 1995, the UNDP/COs appear not to have been properly briefed about their roles in the project implementation. Since then most of the COs SDAs have been responsive and a few have been particularly active.

As a result of a large number of actors in the project the sources and users of the reports are equally numerous. Formats for reporting are attached in the joint project document but do not seem to have been used strictly as initially envisaged.

It is not clear by whom the evaluation reports regarding the effectiveness of project in each country are to be prepared. Thus, the format for monitoring effectiveness of project implementation in the beneficiary countries which is attached to the joint project document has not been so far used.

### 3. CONCLUSIONS

This project is a unique and challenging experiment in collaboration between UNEP and UNDP (collaborating agencies) as well as cooperation with other organizations such as the



world Bank and IUCN( cooperating agencies). As the only one of its kind it did not benefit from lessons which might have been learnt in the past by other attempts. Thus, it should not be surprising that it has been beset with several problems. It may be that even with the present modalities of operation in place there may still be some problems cropping up now and then. That is something to be expected in any project. No project implementation can be perfect particularly a project of this nature.

The novelty and, hence, the unfamiliarity of the collaborative venture may have, initially led the agencies to become defensive and protective of their own systems of operation and not seek promptly possibilities and new avenues. However, in the end, the challenge has been met and the results are fruitful.

In the context of this project delay becomes relative since, while it is possible to plan and fix time frames such plans and time frames still depend on so many assumptions that, in the end, the time frame serves only as a point of reference and not as means of measuring progress. In this project it is only in the context and against the initial project duration period ( 94-97) that one can speak of delays.

Thus, it will be unrealistic to expect activities to proceed in a clock work fashion with strict adherence to time tables and deadlines.

Taking all these factors in to consideration the project can be said to be moving reasonably well subsequent to the consultative committee meeting held in November, 1995.

More importantly the project is proving that:-

1. through the provision of scarce financial resources and only a catalytic role, in terms of providing training both hands on or otherwise, played by external support, beneficiary countries are proving that they can accomplish the objectives of the project by themselves and, in the process, developing the skills and knowledge required to continue the process.
2. if the approach is applied correctly and adequately, ownership of project outputs can be created through the application of a participatory approach at which project outputs are discussed before being finalized as well as after being finalized, thus, ensuring that outputs reflect the social, economic, political and cultural values of the specific setting and that the public is aware about the nature and implication of these outputs.
3. joint implementation of a project such as this one through a collaborative process is feasible.
4. Personal understanding and sympathetic relationships between the persons

of the collaborating agencies involved in the implementation of the project is an indispensable requirement not only to come up with the solutions but also for the solutions to work.

5. The involvement of the cooperating agencies in the PSC and field levels is useful and productive. Besides being able to contribute in this manner the cooperating agencies themselves have also benefitted from increased knowledge about each other.
6. In order to have long lasting effect the process must continue having regard to the absorptive capacity of each country. Hurrying the process will result in falling short of the intended objectives.
7. Eventually such trials may lead to a reorientation in the ways the agencies have been going on rendering technical assistance for capacity building.

Therefore, within the remaining period of this first phase of the project, sub-projects should commence in the other African countries which the PSC has categorized as second priority and reserve. Selection should take into account geographical distribution. Only country sub-projects should be entertained since the EA sub-regional project has not yielded experience which warrants the feasibility of such an approach.

What is more, since the number of African countries in need of assistance in the area of Environmental legislation and institutions and who would prefer to benefit from this unique approach is large there is an obvious need to think about, at least, a second phase of the project.

## **I. Introduction**

This is a review report of the UNEP/UNDP Joint Project On Environmental Law and Institutions in Africa arising from an initiative taken by the Dutch government in 1992, which decided, at that time, to put aside five million Dollars to assist selected African countries in building their capacity in environmental law as well as institutions required for the effective implementation of such laws. The Dutch government took the initiative in view of the strong interest indicated by African countries at various international fora and through their continental institutions for the development of various measures that would promote and strengthen their capacity to use and sustainably manage their natural resources including capacity in the area of environmental law and institutions.

Given recent recognition by African countries as well as the world community at large that environmental and natural resources degradation may be the single most important factor constraining sustainable development it should not come as a surprise when African countries express their desire to build their capacity to, among others, strengthen or sometimes even build from scratch their capacity to draft and effectively implement environmental legislation that are crafted to meet their specific needs.

After the commitment of the Dutch government in 1992 three years passed in preparatory activities including, among others, the appointment of a TM for the Project, the selection of appropriate countries as well as the search for a suitable operational modality thus delaying the actual implementation of project activities until 1996.

Although an overall external review was proposed by the TM Manager to be undertaken at the beginning of 1997 a proposal by the funding Dutch government to extend the project life to 1998 in order to compensate the time lost in 1995 prompted the postponement of the external evaluation. However, at the fifth meeting of the PSC. in December 1996 it was agreed that there was a need to undertake an internal review of the project in order to assess the activities to date and identify areas where adjustments, if any, need to be made to facilitate a more effective implementation of the Project.

Whereas this internal review could have been undertaken by one of the members of the it was decided that a review by an independent external evaluator would be appropriate to safeguard against possible bias.

## **\*II. Project Description**

### **1. Project Rationale and Inception**

The project deals with a matter that lies within one of the major priority areas of focus for assistance under the policy of development assistance of the Dutch government. The Dutch policy stresses strengthening capacity so that other development activities can be carried out effectively and sustainably. In this particular project the position of the Dutch government

is similar. They believe that without adequate capacity building measures effective environmental management will hardly be possible.

The Dutch government has for a long time committed itself to promote the development of environmental law at both at the global and national levels in developing countries. This commitment can be seen as the extension of the policy of that government to assist in the creation and/or strengthening of the capacity of developing countries institutions through education. That policy was initiated in the middle of the 1980s and is now supporting six, two and three universities in Africa, Latin America and Asia, respectively. This support to universities includes, among others, the development of curricula for advanced degree studies in environmental law.

The UNEP/UNDP Joint Project in Environmental Law and Institutions was initiated in Africa for the justifiable reason that African countries have for a long time indicated the sustainable management of the environment and natural resources as one of their major priorities.

The interest of African countries in the sustainable management of the environment and natural resources can be traced to as far back as 1965 when the resolutions passed by the OAU Council of Ministers included concerns regarding the proper management of the environmental and natural resources of the continent. In 1968 African countries negotiated, with financial support from the Dutch government, a major convention i.e. The African Convention for the Conservation of Nature and Natural Resources which was quite an achievement for that period. Other major continental policy declarations such as the Lagos Plan of Action and the Final Act of Lagos (1980), APPER 1986 and the Abuja Treaty which establishes the African Economic Community (1991) also give particular attention to the environmental / natural resources problems of the continent as well as the need to tackle the problems through appropriate measures of management.

The Global expertise of UNEP in the field of environmental legislation as well as its experience in rendering technical assistance to developing countries combined with UNDP's experience of working in partnership with national institutional establishments for the promotion of development through capacity building was considered essential for the successful initiation and implementation of the Joint Project. IUCN was also considered an important contributor to the Joint Project because, as an NGO it has expertise in environmental / natural resources legislation in different regions and in particular in the area of biodiversity.

## **2. Project Formulation**

After the Dutch government approached the collaborating core agencies (UNDP, UNEP) and explained their intentions, the two agencies commenced consultations on how they can cooperate to undertake the Joint Project. A draft Joint Project proposal was prepared at the end of 1992. On Feb. 18, 1993, it was presented to UNEP's Project Screening Committee

and was approved.

The Joint Project proposal did not specify the individual countries which will be beneficiaries of the project. Instead it set out criteria for selecting such countries. This initial criteria have been revised a number of times before they became final.

The targets to be reached within each selected country by the project were to be in line with the ongoing UNEP Sub-Programme: Environmental Institutions and Policies.

Broadly put, the major objectives, as specified in the Joint Project document, are:-

- a. Selection of African countries to be assisted;
- b. Development of National Legislation and institutional structures on the basis of a structured programme phased out to facilitate effective absorption;
- c. Development of human and material resources capacities to effectively implement the legislative and institutional regimes.

To attain the three major objectives of the project the following three strategies were envisaged:-

- a. Collection, analysis and synthesis of existing reports and other documentation on legislation and institutional mechanisms in existing data bases and through consultations with UN agencies and other organizations.
- b. Determining the existing situation in African countries and the status of related projects already completed or underway as well as determination of the country's interest and commitment to the activities of the project;
- c. Mobilizing resources and working in close cooperation with UN and other agencies as well as institutions of beneficiary governments, NGOs and universities in project countries to develop human and material resources capacities for the efficient implementation of developed legislative and institutional regimes.

The following results were expected from the implementation of the project in the selected African countries:-

- a. International legal instruments (ILI);

Enhanced implementation of environmental instruments in Africa countries, specifically UNEP administered conventions and UNEP guidelines and principles;



strengthening legal regimes for chemicals in international trade, protection of marine environment from land-based activities and for combatting illegal trade in wildlife from African perspective.

b. National Legislation and Institutions (NLI);

Strengthening of existing environmental legislation and institutions in about 10 selected developing African countries to enable these countries to effectively translate sustainable development policies and strategies into action, through:

Identification of strengths, weaknesses and gaps in the existing national environmental legislation and institutions and recommending ways and means of legislative and institutional reforms to strengthen national environmental legislation and institutions as well as coordination to promote sustainable development.

Enhanced national capabilities and increased awareness of policy makers and the public of the importance of implementation of national environmental legislation including legislation to apply regional and international environmental agreements accepted by the countries in Africa at national level.

c. Legal Training, Information and Education (LTIE)

Having in African countries a core group of trained personnel and necessary equipment, machinery etc., at relevant national institutions to facilitate: effective participation in the development and implementation of new and revised international environmental agreements and instruments; development and effective implementation of environmental legislation; and, the efficient functioning of related institutions. Also to effectively mobilize media, schoolchildren, youth, women, community groups, etc in the development and implementation of legislative and institutional measures to promote sustainable development in Africa.

All of these were in line with Agenda 21 to which African countries have committed themselves.

The outputs expected from the Joint Project are described in the joint project document.

The assumptions are set out as:-

commitment of participating countries to adopt and enforce international conventions and other legal instruments.

commitment to legislative and institutional reforms as well as have the infrastructure to support implementation;



development of the necessary partnership with national institutions and other interested organizations with interest in ensuring optimal use of scarce resources and avoiding unnecessary duplication;

the organizational, research and training capacities for the participating countries will be adequate to meet the needs of holding global, regional and national seminars and activities related to the development of legal information network and environmental education.

The risks, both general and specific, were set out as:-

General risks :-

the possibility of political instability which endanger the continuation of project activities;

lack of appropriate socio-economic infrastructure to sustain the implementation of project activities.

Specific risks pertained to:-

the complexity of the African context for environmental management and the nature of existing institutional processes,

The following points were to be emphasized during the implementation of the project:-

the project was to be country driven, meaning that execution of planned activities will be led by the selected countries through national experts;

the project activities will not duplicate on going activities but rather complement them;

UNEP will be responsible for overall execution, but UNDP will particularly be responsible for facilitating implementation at the country level and sub-regional levels and the respective responsibilities of UNEP and UNDP will be performed as two separate projects;

The FAO, IUCN and WB, as cooperating agencies, will participate in the selection of project countries.

The first phase of the project as, formally agreed upon by the PSC on June 10 and September 30, 1994 as well as May 11-16, 1995 was to cover a maximum of ten countries and to last for four years.

The countries were to be selected on the basis of, among others,-

whether they already had initiatives for the development of environmental law and institutions, or

whether they had UNDP Capacity 21 programme being implemented.

Project intentions, from the beginning of the selection of the countries, was to stress implementation which avoided, by all means, duplication of ongoing initiatives, established commitments or completed initiatives. Any success was to be replicated in other countries.

In the implementation of project activities the following principles were to be followed (Briefing Note, Jan, 1997):-

ensure that the laws and regulations developed in the specific countries or the sub-region reflect internal or sub-regional policies, social values and character;

promote the capacity of the participating country nationals who will, as they go through the process of developing the various laws and regulations, acquire skills in the preparation of environmental laws and regulations, be well acquainted with the legislative history of such laws and regulations and serve as skilled human power for the enforcement and implementation of such laws and regulations;

ensure ownership of the process and final output of the project activities through participatory consensus building methods such as seminars and workshops where draft laws and regulations as well as reports related thereto will be discussed by stakeholders.

In order to apply to these principles the following approach to project activity implementation, as set out in the Joint Project document and further developed by the PSC, was to be adhered to:-

Responsibility for the development of internal environmental legislation to be given to NLTFs consisting of national officials. In the case of the EA sub-regional project the approach was developed is a little different. National level responsibilities were to be given to NCCs in each of the countries and sub-regional responsibilities were to be given to an RCC composed of high level representatives of the governments. In addition, an expert group of the participating countries was to be established as a technical body at the sub-regional level.

the Project TM was to work with each NLTF to draw up work plans and time tables for the implementation of the work plan;

The Project TM was, also (as appropriate, and assisted by the experts of the participating agencies) to render advice and/or provide legal assistance from other countries, so that the NLTFs and NCCs will be able to ensure the adequacy of project outputs in terms of substantive content and institutional mechanisms.

The Project TM was also to arrange, when necessary, for the services of international consultants to provide for backstopping or for reviewing the draft laws developed by the NLTFs.

In brief what the project seeks to accomplish in the countries to be selected has been stated as follows (Briefing Note January 1997).

- a. The development of a framework environmental law for each of the project beneficiary countries;
- b. The development of a set of priority sectoral statutes as decided by the NLTFs;
- c. The development of a set of priority implementing regulations under the framework law or sectoral statutes, as may be determined by the national committee;
- d. The promotion of the establishment of an agreed legislative machinery for the implementation of environmental conventions;
- e. The harmonization of laws, within the sub-regional context and for subjects identified by officials of the government;
- f. The arrangements for capacity building, including introduction or strengthening of the teaching of environmental law at university level. In addition, some arrangements were to be made for building of awareness on environmental law at other tertiary levels.

As agreed in the Joint Project document to split the project into two projects run separately by UNEP and UNDP the development of two separate projects documents commenced. UNEP's separate project document was finalized towards the end of November 1994 while that of UNDP was finalized and approved within the UNDP in early May 1995 and subsequently transmitted to UNOPS in late July 1995. UNOPS, in turn, had to revise the project according to its own requirements to turn the project document in to an implementable one with clear activities, time tables and detailed budgets. The revision took up to the middle of August 1995 on which date the project document received the approval of UNOPS's project acceptance committee and a go ahead was given.

### III PURPOSE OF THE REVIEW:

The purpose of this review is not for determining the ultimate future fate of the Project. That stage of comprehensive evaluation is now postponed for some future date which might probably be towards the end of 1998. This is an internal review, which is being undertaken by an external consultant, so as to enable the project to benefit from an objective assessment, appraisal and recommendations which may subsequently be used as a basis upon which Project Management will generally be able to steer the project and, particularly to:-

- get, for the first time, an overall assessment of how the project is progressing, and
- based on such an overall review, to get an indication of aspects of the project which require adjustments or changes in order to enhance the benefits that project countries will get from the project activities.

### IV. SCOPE OF THE REVIEW AND METHODOLOGY USED

In carrying out this review the consultant has made an effort, as stressed in the Special Service Agreement and the TOR for the review (Annex D), to make an assessment of the project as it relates to the interests of African countries and come up with recommendations for immediate and long term actions and adjustments as well as point out lessons learnt in the execution of the Project to date as a basis for future action.

The review report consists of eight sections consisting of an Introduction (Section 1), Background or Description of the Project (Section 2), Purpose of the Evaluation (Section 3), Scope of the Review and Methodology Used (Section 4), Assessment (Section 5), Conclusions (Section 6), Lessons Learnt (Section 7) and Recommendations (Section 8). Sections 5,6,7 and 8 are the substantive parts of the review report. Section 5 presents in detail the observations of the consultant in reviewing the several aspects of the project including, inception of the project, project preparation phase, implementation, process, overall management structure, country and sub-regional level structures, financial arrangements and financial sustainability, reporting, monitoring and evaluation and collaborative arrangements. Section 6 deals with the conclusions while sections 7 and 8 deal with lessons learnt and recommendations.

The consultant undertook this review during the period April 21 to May 31, 1997. The core activities of the review can be divided into three: i.e.

- Examination of available project documents, reports and available correspondence as well as conducting interviews with Nairobi UNDP/CO Resident Representative and relevant staff designated by him, UNDP and UNOPS NY, ELI/PAC, ROA and the Fund in Nairobi which is the seat of

overall project management;

- Visits to Malawi, where country specific sub-project activities have been going on and Uganda which is a nucleus for the EA sub-regional project activities; and
- Examination of responses to a pre-review questionnaire sent out to participant agencies.

During the visits in the two countries interviews were undertaken with Government Officials at all relevant levels, other persons who have been attending training by attachment and through workshops and seminars, NLTF members, national consultants, participants to national consensus building workshops as well as UNDP/CO officials. The interviews were carried out in a manner that would encourage respondents to make a critical appraisal of the procedures and approaches used in these countries to evolve laws, the quality and adequacy of use of national consultants and backstopping missions as well as the quality of the various reports and draft laws, if any, which were developed. The impact of the drafting process and the various national and regional workshops in terms of improved capacity to deal with legal environmental issues was also considered during the interviews.

After the initial draft review was finalized it was presented to the Sixth Meeting of the PSC where members expressed their views. This final report, which also reflects the views expressed by members of the PSC, was then completed on May 30th, 1997.

## **V. Assessment**

### **1. Project Inception and Rationale**

The rationale for the project is sound. The project is a logical consequence of the decisions reached within the framework of Agenda 21. Donor policy and the needs of African countries are in harmony. That the project rationale is sound and that its implementation is fulfilling the felt needs of the project beneficiary countries has been confirmed during the consultant's visit to Malawi and Uganda. Both governments were emphatic about the importance of the project activities in their countries and if possible, they would like to see activities intensified.

The idea of implementing the project through interagency cooperation between the core agencies -ie UNEP/UNDP in order to utilize their comparative advantages is also, in principle, sound. How best such collaboration will be carried out is a function of project preparation.

## 2. Project Preparation Phase

In the preparation of the joint project document adequate attention may not have been given to the implementation arrangements within the collaborative framework, the appropriateness of keeping out of project implementation scope some preparatory activities such as selecting countries and preparing information required for such selection. The requirement for separate project documents for UNEP and UNDP, once agreed upon, should have also been finalized by the respective agencies before the grant agreement with the Dutch government was signed thus eliminating the delay from September 1993 to August 1995 which is attributable to this aspect.

Another important issue not taken into account in developing activities in the Joint Project document is the manner in which such entities as NGOs and local communities are to benefit from the project.

Between November 1993 when the grant agreement between the Dutch government and UNEP was signed (ie- after UNEP and UNDP made the joint agreement in September 1993) and July 1994 UNDP's part of the draft project document was not prepared because Capacity 21 had to clarify how the joint project was to be implemented in actual practice. Therefore, there was a lot of correspondence in house within UNDP NY structure ie- the Bureau for Programme Policy and Evaluation, the Environment and Natural Resources Group and the UNDP ROA. There was also one mission to Nairobi in May 1994. The first draft UNDP project was sent to UNDP/ROA in March 1994 and to UNEP in August 1994 for comment. UNEP's comment was received by Capacity 21 in February 1995. The final draft was prepared and submitted to UNDP's project acceptance committee on May 5, 1995.

It appears that in the period before the Joint Project was agreed upon UNEP and UNDP have not considered the possibility of being faced with implementational problems due to their differing operational practices and organizational structures. There appear to have been too many assumptions. Assumptions which led the collaborating core agencies to believe that there will be no serious difficulties arising of the collaboration. Prior anticipation would have minimized the major causes for implementational constraints encountered later. It may also have enabled the collaborating core agencies to, among others, select a different implementation arrangement.

By January 1993 (through an exchange of notes) the two core agencies have agreed who the beneficiaries of the project should be in the beneficiary countries to be selected.

Consequently the Joint Project document identifies targets within the countries who are to benefit from project activities. How some of these identified targets were to benefit directly form implementation of project activities is not elaborated within the Joint Project document in terms of outputs and the activities required to lead to such outputs.

For example, how is the ability of NGOs contribution to environmental decision making enhanced by the implementation of the project or that of grass-roots community based organizations? Is it through direct participation in the planning and implementation of project activities at country levels as stakeholders ( eg- NCCs, NLTFs) or is it because legislation and institutional mechanisms resulting from project activities will empower them to have fuller participation than hitherto or is it through awareness and sensitization workshops or a combination of all these? These questions become relevant later when the implementation part is addressed.

The core agencies also set out in the project document criteria for selecting the countries. These initial criteria have been revised a number of times before they became final.

Although an initial list of 26 countries was proposed before the Joint Project document was officially signed on 30th September 1993 between the Deputy Executive Director of UNEP and an assistant administrator of UNDP and the subsequent signature of the grant agreement by the Dutch government (November 1993), it was not until the 2nd PSC meeting (Sept. 1994) that the final list of countries, which were to benefit from the project as a first phase program, was agreed upon.

The selection of beneficiary countries was carried out by the PSC as an activity of the work program attached as part of the Joint Project document. Country selection could have been made and agreed upon, during project formulation.

UNEP/ROA does not appear to have been involved in this process. Had UNEP/ ROA been able to involve themselves during the inception of the project or during the selection of countries by the PSC, the following issues would have been given attention:-

- the advisability of briefing AMCEN, where the ministers of Environment of the participating countries would be present, about the project. This would have been useful in terms of project ownership at the continental level and the level of project beneficiary countries.
- the need for balance in the choice of the beneficiary countries from the language and/or geographical representation point of view requires balancing.

From the language point of view, there is only one French speaking country while there are two Portuguese and four English speaking countries. The imbalance between the French speaking and English speaking countries is caused by the fact that there is a sub-regional project in Africa which involves the three East African countries. Commencement of a similar project can bring about the required balance if a similar sub-regional project was to be undertaken in West Africa.

A still better approach would have been using the geographic distribution on the basis of

the well established sub-regional divisions in Africa such as IGADD, UMA, CILSS, ECOWAS etc. One or two countries could have been selected. This approach could also be combined with an attempt to also include representative legal systems.

Consideration of these issues at the initial joint project document design period would have made implementation smoother. In other words a different collaborative arrangement and the advance selection of the beneficiary countries would have minimized delays after commencement of project implementation.

Understandably the situation during the immediate post UNCED period at which time the project was formulated was full of pressure for immediate action in implementing Agenda 21. Although a lot of financial assistance was being expected for environmental projects it was soon clear that will not be the reality.

Therefore, when the Dutch government came with a proposal for a US\$ 5,000,000 grant there might have been a compulsion to act quickly by formulating a project and submitting it as promptly as possible since there was a lot of competition for funds. Thus, UNEP/UNDP had to learn how to collaboratively implement the project.

### **3. Implementation**

Implementation began with the first PSC meeting taking place on June 10, 1994 almost as scheduled in the overall work plan. At that meeting twelve individual sub-project countries as well as three sub-regional project countries for a sub-regional project were selected using the established criteria. It was agreed that in case a sub-regional project was to start in the Sahelian region Mauritania, Niger, and Mali were to be added to Burkina Faso to form such a sub-regional project. In terms of prioritized categorization it was agreed that Malawi, Sao Tome and Principe and Mozambique will be first priority together with the EA sub-regional project. Ghana, Zambia, Morocco and the Gambia were categorized as second priority. The other countries were considered as reserves. It was agreed to prepare work plans for the first priority countries and the EA sub-regional project consisting of Kenya, Uganda and Tanzania.

Lead agency (ies) were agreed upon for the development of the work plans for each sub-project although interagency collaboration in the preparation of the work plans was still expected as a way of maintaining and strengthening the process that has started. The PSC also designated an acting TM pending the recruitment of one as well as defined the TOR of the TM.

Between August 1994 and May 1995, over a period of 10 months work plans were developed for the first priority countries and the EA sub-project. South Africa was also added to the priority list.

The 2nd PSC meeting took place in Geneva on 30th September, 1994 as scheduled. The



selection of the TM was made at this meeting. South Africa was accepted as beneficiary country although the PSC had agreed during its first meeting to put that country in the reserve category of countries. Agreement was also reached that agencies may continue their own activities independently in the countries not selected.

At the 2nd meeting the PSC made the following decision regarding the preparation of work plans:-

- work plans should be developed through national consultative mechanisms;
- each government may initiate this consultative process through the establishment of a NLTF on environmental law and institutions whose members should be drawn from a diversity of stakeholders including representatives of various relevant government institutions, NGOs, Universities etc.;
- UNDP's SDAs at the respective country offices should service the task forces and serve as points of contact in the government for the development and implementation of the country projects;
- All projects should be nationally executed/ country driven;
- the development of the work plan should be undertaken within a government institution which is most appropriate forum dealing with issues of sustainable development so that the environmental law programme does not become a separate parallel activity; and
- the national task forces should steer the process leading to the development of an appropriate work plan and give leadership at the national level for the implementation of such work plan.

Essentially it was between the first and third PSC meetings that the initial work plans started being drafted and agreed upon to start implementation of activities designed to result in the outputs envisaged in the project document.

An summary of the country sub-projects and the sub-regional project implementation progress is attached as Annex A.

The following is an assessment of project implementation by objectives:-

## **OBJECTIVE ONE**

### **International Instruments**

One overall activity area which the Joint Project document identified is international legal instruments in selected African countries. The broad objective is to assist African countries

to develop common positions on problems and issues of sustainable development as well as encourage the development and subsequent implementation of international legal instruments specific to Africa. The work plan in the joint project document has identified the adoption, ratification and implementation of the Lusaka agreement

At the second PSC meeting the members decided that the status of the Lusaka Agreement at that time was outside the mandate of the project. As a result, there have been no activities in the area of international instruments to date. However, in the process of reviewing national environmental laws the area of international instruments is being addressed. Through such reviews countries are becoming more informed about international instruments which may be of interest to them as well as the need to incorporate in their environmental legislation of provisions essential for implementing obligations in international instruments that they have already ratified. There is, also, a workshop that is scheduled to take place in Maputo at the end of June which is designed to familiarize participants to the CBD and related agreements such as CITES etc.

## **OBJECTIVE II**

### **Development of Legislation**

The project approach of imparting skills and knowledge pertaining to the review and drafting of environmental laws, including framework environmental laws, to nationals of the beneficiary countries through a hands on experience is sound and having the expected impact. This has been confirmed in the two countries visited by the consultant.

Many of the national consultants are convinced that they are now able to undertake similar tasks henceforth since they have gained the skills and confidence required. The consultancy process is also yielding unexpected incremental benefits. For example one of the national consultants has taken an initiative to have environment on the current agenda of the Law Society of Malawi.

The approach has been applied consistently in every case except in the case of framework legislation drafting where assistance by UNEP or other agencies had already started in a particular country.

The concept of sustainable development is premised on a holistic approach to development which requires the integration of environment and development concerns. The implication of these concepts to the development of environmental legislation has been the evolution of the framework approach to environmental legislation. Thus, an adequate grasp of the concepts, objectives and approaches of framework legislation by national experts is essential.

In some cases (ie- Mozambique) even though the framework legislation was completed as a prior initiative the reports indicate that the drafting has been done in collaboration with a national work group. Or, as in the case of Malawi, the framework legislation has undergone

a review which required a redrafting by national consultants. Thus, the opportunity for national consultants to gain expertise in that area may not have been totally missed, in these particular cases.

The regional workshop on environmental framework legislation envisaged in the project document has so far taken place in the Portuguese speaking countries. The report which was transmitted to the TM's office indicates that it was not only well received but also has managed to motivate participants to pursue further training in the area where possible. Such workshops are of immense importance both for the experts who have not been able to participate in drafting framework legislation as well as for those who have already done so.

In many of the participating countries there is obviously an absence of even the minimum awareness about environmental legislation and, as a result, the quality of the products of the reviews and the drafting exercises have been upgraded by backstopping activities which included providing initial guidelines for preparing such reviews and draft laws as well as sending missions to beneficiary countries to comment and advise on review reports and draft laws. before they are finalized.

The missions are considered as having been useful in assisting national consultants to improve their skills and, as a result the quality of the outputs. The national consultants in the visited countries have declared that the backstopping missions have assisted them in their work since they were not specialists in environmental law.

The project may, however, want to consider developing detailed guidelines for methodology which will indicate to the reviewers a step by step directive on how to go about doing reviews. A similar approach can also be followed to improve the drafting of laws. The obvious advantage of such guidelines is that they may eliminate the need for several revised drafts, thus saving time, as well as the need to send backstopping missions to advise on improvements.

The project should also contemplate the possibility, whenever appropriate, of having products commented upon by having sent them to the backstopper rather than sending one on a mission which is quite expensive. This may help reduce costs.

### **OBJECTIVE III Training, Education and Information**

The three workshops and seminars that have been undertaken by the project so far have proved to be important awareness and capacity building measures.

An examination of the documents indicates that they are practical and organized in such a way as to enable participants to get the most out of them. The various participants to these workshops come knowing nothing or very little about environmental law in general and subject matters going to be presented in the workshops in particular.

The consultant has examined the draft concept papers for three proposed workshops. They are well targeted and are in line with the broad needs of the beneficiary countries. The workshop proposed for lecturers in environmental law is particularly important since it may well facilitate the incorporation of environmental law in the curricula of the law faculties of the participating countries.

The receptiveness and appreciation of the participants during the workshops have been reportedly excellent and this has been verified in Malawi and Uganda during interviews with participants. They have confirmed that the intensive training they have undergone has helped them to do better what they are doing with the broad perspective they have gained. In fact, the value of these workshops is so much appreciated that there have been requests for similar workshops at national levels so that larger participation will be possible. These may be taken as proof that they had significant positive impact.

However, repeating such workshops and seminars in each country under this project may not be the cost effective way to go about it. A more cost effective and, at the same time, a better capacity building exercise will be to design the regional workshop materials in such a way that the participants can use them in their countries to undertake similar workshops covering larger groups.

Workshop participants from Malawi have expressed their willingness to impart the knowledge they have gained through such workshops and in one instance at least a participant has made such a proposal in his after seminar report to his institution.

Again in the case of Malawi the participants to the workshop on standards have become involved in a committee established by MOREA to deliberate upon how standards can be developed and to formulate a project profile for that purpose. In the case of one participant from Malawi to the Judicial intervention seminar, participation has motivated him to take his own initiative whereby he frequently goes out to other courts and discusses with the magistrates about the importance of the environment and the role the courts can play in its sustainable use.

As long as the workshops are budgeted reasonably well they can be held with minimal costs which can be covered from government, donor or private sector or NGO sources. In fact, governments and UNDP/COs should be requested to follow up on this issue and organize similar workshops and seminars to bring about a multiplier effect.

The training by attachment is also considered by the participants very useful and important in terms of getting information, relevant materials and making contacts. What insight and information is gained has been of useful application. In Malawi one of the two trainees is directly using what was gained from the training in his job. The other did not have this opportunity so far although the possibility to use it in the future is there. In Uganda the trainee is directly involved in project activities and is, therefore, applying the knowledge and information from the training. In both countries the need for some kind of certificate

was mentioned. Certificates of participation to informal short training programmes, workshops and seminars is common practice. In the case of this project providing such certificates may be good for the participants of both the training by attachment as well as the workshops and seminars. People want to show something after attending in one of these events and the cost of certificates is insignificant.

However, there is still the question of long term sustainability to deal with. Of course, it may not be possible to tackle all of the sustainability issues within the bounds of this project. However, some are worth considering particularly because they have been envisaged within the project document.

The attempt to try and strengthen the law faculties to include in their curricula environmental law is one such activity already envisaged which should be pursued more vigorously. If the law faculties of the countries manage to create appropriate environmental law courses in their programmes then the countries will be assured of a continuous stream of lawyers who are knowledgeable in environmental law and who can be employed as judges, practicing lawyers or government servants.

Another means of ensuring sustainability could be creating the means by which lawyers as well as other people involved in environmental management can be able to continuously be updated about new developments in the field. The project should contemplate building up resource centers where all kinds of materials on environmental law and institutions as well as other related reference materials such as books, journals periodicals, texts of international conventions and agreements on environment related matters, environmental conference documents and proceedings etc. can be made available to various users such as environmental law lecturers and researchers. The location of such resource centers will have to be agreed upon in each case. Possible locations are national libraries, university libraries and environmental agencies or ministries.

The issue of long term sustainability also arises in connection with what happens after the intensive workshop training have been undertaken and a whole set of environmental legislation have been drafted. Implementation will bring about a whole set of new and complex challenges such as the actual establishment and making operational of the institutional structure required for effectively running the system created.

However, despite the fact that this project is about legislation and institutions the institutional part is not really visible unless provisions in the laws to be drafted regarding the institutional mechanisms are considered as institutional capacity building.

In the implementation of the requirements of the various provisions of the laws enforcement will not be only a matter for the judiciary. There will be a need for a whole set of administrative machinery and personnel with diverse qualifications running the machinery.

The beneficiary governments visited by the consultant are already aware of and worrying

about the problems they may be faced with. In a time of economic austerity which requires them to retrench they do not have the resources to make operational the institutions required for implementation.

Under such circumstances it is essential to think about those aspects of sustainability in terms of institutional capacity building which this project may not be able to address, and attempt to make linkages with other agencies, bilateral donors etc. who may already be involved or plan to be involved in this kind of assistance so that sustainability will be ensured even after the project is over.

#### **4. PROCESS SUSTAINABILITY**

The modality of carrying out the technical assistance to the beneficiary countries such as giving the countries the opportunity to choose their own priorities for action and indeed undertaking the performance of the tasks themselves with occasional backstopping only when it is required is creating the expected ownership.

The project principles that the sub-projects at the country and sub-region levels be country driven is providing the country experts with the expected confidence and skill. The participation of NLTFs in work plan preparation and implementation has also been useful in creating the required ownership.

The consensus building workshops have served as a means of creating among a range of stakeholders awareness, participation by expressing views and ownership as a result. The experience of the countries visited indicated they have been effective processes of creating broader awareness, participation and final ownership of the sub-projects.

If the changes that resulted through the consensus building workshops for the framework legislation of Malawi are anything to go by, one must admit the correctness of the philosophy of participation and inclusiveness for creating ownership and subsequent commitment. In Malawi participants to the consensus building workshop on the EMA made changes which have resulted in a larger environmental council which also gives consideration to NGO participation and institutional mechanisms for local level decision making. They have, also, opted for all projects to be subjected to EIA initial screening process.

It may be concluded, from the experience so far, that the consensus building workshop approach can be a useful method of ensuring that the outputs reflect both individual country and sub-regional policies, social values and character.

The effort to have as diverse stakeholders as possible participating in the consensus building workshops has not been unsatisfactory but there is always room for improvement.

For example, the participation of NGOs requires attention both in terms of numbers and type. Those NGOs which are actually implementing environmental management activities on the ground need to be given consideration. Otherwise the approach is sound and should be continued despite the obviously longer time span required under this process compared to the previous exclusive approaches.

There is, also, a felt need to sensitize the grass roots community about the new laws that have come up and will be coming up. It is considered that, at the government level, there is sufficient ownership and participation by the different government agencies. However, there has been no effort at awareness creation and sensitization in the communities at the grass roots level so far, despite that fact that the Joint Project document specifies grassroots communities as one of the targets to benefit from the project activities. During the consultant's visit the governments have emphasized the need to take the process down to the grassroots. This is an indication that project activities need to be taken downwards to broaden and deepen impact and thus sustainability. During discussions in Malawi and Uganda suggestions have been made that the preparation of simple materials explaining the new laws and having them discussed at community meetings may be one way of sensitizing the grassroots. District Development Councils are considered very useful vehicles for this kind of activity. However, the detailed modalities need to be worked out.

This kind of activity is ideally suited to be incorporated in the Capacity 21 programmes of the beneficiary countries. For example the Capacity 21 one programmes in Malawi, Mozambique and Sao Tome have components for decentralization which includes capacity building at lower levels.

This approach opens the way to use IPF to sensitize the grass roots to the new laws that are resulting from the sub-projects. Since such countries as Kenya, Tanzania and Uganda are in the process of developing their Capacity 21 programmes it will be worthwhile if the governments of these countries and the COs make an effort to design a programme which takes in to account this important consideration so that proper understanding and subsequent ownership of the project products is ensured. Such an approach will ensure that the project process continues to go down to where it counts even if the project phases out.

## **5. OVERALL MANAGEMENT STRUCTURE**

### **5.1 STEERING COMMITTEE**

Ideally a steering committee need not involve itself in detail project management activities once it approves the policies, plans and work programmes of the project. It should only limit itself to review progress of the project through occasional sessions where it should make an assessment and give directives for subsequent operations. Such review should be based on reports to be submitted to it by the person/institution or persons / institutions

responsible for the day to day management of the project.

However, taking in to account the requirements in the joint project document it was appropriate for the PSC to discuss and decide on some of the issues at the start up of the project such as the selection of the beneficiary countries, developing modalities for the preparation of work plans and the establishment of the TM's office. This role was envisaged for it in the Joint Project document for the project start up period. The PSC meetings have also helped to develop and clarify the collaborative process by means of which it was possible to avoid duplication of efforts and identify areas of complementarity.

At the start up period the PSC process has taken time to reach decisions. The fact that decisions at the PSC level are made on consensus basis may have contributed to make the decision making process lengthy. For example it was not until after the second PSC meeting that the preparation of final work plans for the countries really started.

Work plan preparation for the various participating countries and the EA sub-project was going on from August 1994 to May 1995. It was only by the time of the third PSC meeting in May, 1995, at which time the TM was in place, that work plans were prepared and submitted for the approval of the PSC. Thus, preparation and approval of work plans has taken considerable time not only because the PSC had to consider and decide upon the roles the cooperating agencies should play but also the process of preparing work plans needed an approach that was consultative and participatory.

For some time now the PSC has reverted back to its appropriate role and implementation details are being decided by the TM who informs the PSC members regarding the initiatives he has taken in between PSC meetings.

## 5.2 CONSULTATIVE MEETING

The consultative meetings which have been initiated by UNEP (TM) after agreement with UNDP ( Capacity 21 Coordinator) and which have been taking place as and when necessary, have been the means for resolving the major problems the project has been faced with. These meetings have brought together for the first time the persons critical for facilitating project activities at the country levels. Although long overdue, this face to face communication and collaborative exercise in identifying the problems and finding solutions has paid off.

The communications channels that have been worked out in the November 1995 consultative meeting have been very helpful. There is considerable improvement in communications and the flow of funds has become more predictable.

However, it is important that all concerned adhere strictly to the agreed method of



communicating to avoid reoccurrence of misunderstanding.

Obviously, since the project has started functioning quite well there will be no need to have such meetings. Even if the need for consultation arises in the future there is no reason why it cannot be done during one of the PMC meetings.

### **5.3 PROJECT MONITORING COMMITTEE**

The project monitoring committee which consists only of UNEP, Nairobi UNDP/CO and the Dutch Embassy in Nairobi and which holds frequent meetings has the potential of becoming a useful forum particularly if it becomes more action oriented as suggested at the fourth PSC meeting.

Recent positive developments in more accelerated project implementation would seem to warrant the existence of the PMC and, provided other better and acceptable options are not available it should be encouraged to continue.

It has the advantage of being small consisting of the core agencies and the donor all of whom are close at hand in Nairobi. The PMC could be enlarged as and when necessary to function as a consultative forum at which beneficiary governments and relevant UNDP/CO SDAs may participate.

### **5.4 TASK MANAGER'S OFFICE**

There was delay in the appointment of the TM and other staff of the TM's office. The TM was appointed only on the first of February, 1995. It has taken time to select the TM since all members of the PSC had to be consulted. The PSC has decided that an effort should be made to have the second post filled by a JPO. As a result TOR was prepared and circulated among PSC members and some donor governments. However, nothing has materialized. Thus, to date, the post remains filled provisionally.

The smallness of the staff in that office may be felt more as the project momentum increases and the project spreads in to some other first phase countries to start sub-projects. The TM's office has played the critical role expected of it by pushing things and getting them done. The workshops organized to date are a good example where the advance preparations have been excellent.

### **5.5 NAIROBI UNDP/CO**

The Nairobi UNDP/CO is the designated contact point for UNDP NY. Speaking generally there seem to be no serious problems at present at this CO. In the past they have had high turn overs of people who were supposed to play the role of SDAs. As a

result follow up on country requests were some times delayed because there was no responsible person to act on them and transmit requests to Capacity 21 New York and/or OPS. The problem of turn over appears to have decreased now.

It is important to ensure that this CO should feel it has the delegation to act decisively on matters which concern the UNDP/COs in the participating countries.

## 5.6 UNDP NY

The focal point for the collaboration from the UNDP side is Capacity 21. The Capacity 21 program came in to being in June 1993. The program is expected to play a catalytic role in providing initial seed money to COs to incorporate Capacity 21 type of activities in their over all IPF programmes. This activities are expected to build the capacity of countries to enable them to carry out Agenda 21 programmes. Once the COs start using their own funds to carry out these activities using their own IPF then C21 will phase out its involvement and limit itself to the dissemination of the experiences gained in implementation of the program among the various Capacity 21 countries.

Since the Capacity 21 programmes are intended to be implemented by the UNDP/COs the activities of the Joint Project, which focus in building capacity for the drafting and implementation of environmental legislation, were considered suitable as a basis for collaboration between UNEP which has the technical capacity to render assistance and the UNDP which has the requisite mechanisms at country levels to facilitate coordinated implementation of project activities at those levels.

As it turned out the expectations were not entirely correct on two counts. The first one is that Capacity 21 NY did not have adequate control over the COs. This lack of control is attributed to the highly decentralized nature of the UNDP structure which gives the COs a high degree of independence. The second reason was that Capacity 21 and indeed the whole UNDP NY did not have the mandate to implement projects. Instead they have to transfer project implementation to UNOPS. The only way a project could be implemented without the involvement of UNOPS was through what is called national execution. This mode of execution has, however, been adopted only by Malawi and Mozambique. The EA sub-regional project has not been considered suitable for this kind of execution. Delegating one of the COs in the EA sub-regional countries, although possible, may involve difficulties of selection.

As a result Capacity 21 New York could not effectively be accountable to the implementation of project activities for which it was responsible. However, both weaknesses in the collaborative process did not come in to the open until October 1995.

Lack of communication has continued from the beginning of project implementation by UNDP without any meaningful improvements until November 1995 when a consultative meeting took place.

Present at this meeting were UNDP/CO representatives from Mozambique, Malawi, South Africa, Burkina Faso, Kenya, Uganda, Sao Tome Principe, UNDP and UNOPS Head Quarters in New York as well as representatives of IUCN (Burkina Faso), and UNEP took part.

The purpose of the consultative meeting was to resolve the long standing communications problems and the unsatisfactory financial request and disbursement mechanisms as well as to brief and sensitize the UNDP/CO representatives about the project background, the link between Capacity 21 in New York and the COs responsible for facilitating the implementation of the sub-projects in participating countries and sub-regions.

In fact the first time that the UNDP/COs have received the agreement between UNDP and UNOPS was at that meeting. There were no adequate prior initiatives by Capacity 21 to brief the relevant COs in detail about the nature of the agreement between UNEP and UNDP and the roles that are expected of them. However, the consultant has noted that one page leaflets giving general description of the project has been disseminated to all UNDP/COs for information.

The attempt to integrate the project activities to overall Capacity 21 programmes is, however, continuing. The COs are seeing this project as being part of Capacity 21 programmes in place or being developed in each of the participating countries. Malawi, Mozambique and Sao Tome have developed C21 programmes. Kenya and Tanzania are in the process of developing one. In Uganda the programme is not yet in place. The identification of capacity gaps has recently been completed on the basis of which a programme is yet to be built.

#### 5.7 UNEP/ROA

The joint project envisaged that within UNEP ELI/PAC and ROA will cooperate very closely regarding overall coordination of the joint project, including administrative and financial matters.

The UNEP/ROA is a coordinating office which facilitates UNEP's programmes for Africa through logistical arrangements, providing to UNEP information about politically sensitive matters as well as other relevant developments in Africa.

However, UNEP/ROA's involvement during the project inception period is not apparent. UNEP/ROA's subsequent involvement was rather limited.

Obviously, this office is really understaffed with only four staff members who may have difficulties to play an active role in the project and follow up on the issues because of the number of other activities they have to attend to.

## 6. COUNTRY LEVEL AND SUB-REGIONAL LEVEL IMPLEMENTATION STRUCTURES

The sub-projects have an uncommon feature in a way. There are no project documents signed between the governments and UNEP/UNDP. This is regarded as a problem by some of the beneficiary countries because they consider having no agreements will make project implementation difficult. The argument is that a project cannot operate in a vacuum and that since UNEP has declared that it cannot support the mechanisms of the sub-regional project such as the SRCC, the NCC and the secretariats an agreed project document would have helped them to get more funding from the government.

The beneficiary countries are also concerned about not being invited to PSC meetings. They declare that their proposals are being vetoed by the PSC for reasons not known to them and in a situation where they cannot defend their proposals.

The beneficiary countries feel that the start up of the sub-projects has slowed down as a consequence of the unclarity regarding operational modalities. Delays were evident in the first three PSC meetings as well as in fund disbursement.

The countries visited by the consultant are now more optimistic because funds are flowing to them reasonably well. Malawi, which has taken the country execution option declared that it is very well for them. Both countries visited were very open about some of the delays on their part. The delays are mainly attributed to short handedness in human power and the desire to undertake activities following what they considered was the logical way to proceed. Thus, the delays which can be attributed to participating governments are, in most cases, caused not due to lack of commitment or interest but to short handedness in human power.

Progress has been even more slow regarding the EA sub-regional project.

The sub-regional project was delayed because it was difficult to get together the three countries to coordinate in the implementation of the project and they were not all at the same level of development in terms of the development of environmental framework legislation and other sectoral laws and implementation regulations. In other words it was not possible to make a reality of the intended harmonization in the selected areas in a situation where the pace of activities to develop domestic legislation in the individual countries was not the same in all the participating countries. Uganda has been always ready to go ahead but Kenya and, particularly Tanzania have been slow. In the case of Kenya they had to complete drafting their environmental framework legislation which contributed to delays on their part since the process took quite some time. However, they regard their decision to wait as wise because, now, the national consultants have been afforded the opportunity to refer to the draft framework legislation for guidance. That one should not

draft sectoral laws without having in place a framework legislation is emphasized by both Uganda and Kenya. Kenya's draft environmental framework legislation is presently before the Attorney General. Similarly the environmental policy which has been developed under the NEAP process is also awaiting approval by cabinet and parliament.

Lack of response from Tanzania ( both from government as well as UNDP CO) appears to be the major delaying factor. The latest concurrent channel of communication opened with Tanzania at the permanent secretary level as well as director levels is expected to open the way for better understanding and improve cooperation from that country.

They are also afraid that unless Tanzania resolves its institutional problems the project is likely to move in the same unsatisfactory pace. Because Uganda is at a more advanced stage and wants to move fast they are likely to be impatient. Obviously national priorities still come ahead of sub-regional cooperation.

A decision has been taken by the PSC to concentrate only on the sub-regional aspects of the project. It is, however important that this decision be reconsidered in view of what is happening in the three EA countries. Such reconsideration may forestall the tendency on the more advanced countries to simply neglect the sub-regional aspects while the less advanced countries would insist on having their framework environmental legislation in place and prioritizing their sectoral legislation before they start to focus on harmonization.

Despite all this, however, beginning from July 1996 progress of the project has improved. The work plan they are working on are new six month plans which commenced in December 1996 and will go on up to May 1997. The sub-regional experts have met once to prepare their six months plan. At present Kenya is aware that they are about one month behind schedule in work plan. This was as a result of time taken to have the consultants well introduced to the relevant government organizations and other entities for the purpose of accessing their information data and talking to them. But already Kenya has produced four documents and are expecting the next three documents to be submitted in the next two weeks.

In terms of other benefits from the project a computer has been procured for Kenya and Uganda. Kenya is also expecting a photo copier to arrive soon. They confirm that such equipment has been very useful. There is no formal reporting system to TM's Office.

The consultant has observed that members of the PSC, both collectively and individually, are worried about the level of financial and material contributions by beneficiary countries towards the sub-projects. Although such contributions may be considered as signs of commitment to the project it may not necessarily mean that there is no commitment if governments are unable to contribute because they simply do not have the resources required. There was a time when the PSC had insisted that greater levels of contribution be made by the beneficiary countries and was reluctant to approve requests for regarding equipment despite the fact that the joint project document envisages the provision of

equipment and other essential material resources for effective implementation. The PSC changed its position later and that has resulted in the purchase of equipment which has been of much use to the project coordinating offices in the beneficiary countries.

The issue of incentives requires attention. The NLTFs have complaints regarding unkept promises concerning the level of sitting allowances. The consultant has the impression that they have resigned themselves to the present level of sitting allowances. On the other hand it has been stressed by high level officials in the government coordinating of the project beneficiary countries institutions that the project coordinators do need some kind of financial incentive such as top ups to their salaries. Coordinators of other internationally assisted projects in these countries do have such incentives and as a result the coordinators of the sub-projects under this project feel unhappy about their situation. This is particularly so since the coordinators do not have additional staff to assist them and are also responsible for other duties besides following up the sub- projects.

#### **6.1 NLTFs\ NCCs\ NATIONAL CONSULTANTS**

It is not realistic to reach conclusions on the usefulness and effectiveness of NLTFs and NCCs from the experience in Malawi and Uganda only since specific circumstances in each country determine the character and extent of involvement of the NLTFs even if their TOR is basically the same.

this must be taken into account when reading the following conclusions.

The NLTFs are very useful mechanisms in the process of creating ownership. It is felt that it will be necessary to keep them functional and make their views have the necessary weight. They should have political backing and, where possible even, a legal status.

The process of having the NLTFs lead project activities is considered as creating the ownership required. The member institutions are very interested in the project.

In addition what the NLTF members learn at NLTF meetings is considered important both as information and knowledge. It has become easier to implement agreements made at the TF meetings because they are consensus agreements.

Attendance appears to be not so much of a problem although individual members miss meetings sometimes. Sometimes invitations may not be sent on time. There maybe a problem of turn over in individual members, thus having a negative impact on continuity in individual terms. Maintaining institutional membership may not have been a problem.

They do hold meetings even though not at regular intervals. Regularity is not considered so important as long as they meet whenever there is reason to hold a meeting. NLTF's achievements have depended on the extent of outputs presented to them from the activities of the project, mainly the output from the national consultants.

Immediately after their establishment the NLTFs may not have been active since implementation has yet to start. Their involvement starts picking up as implementation starts and outputs begin to be produced. For example in Malawi the rate of meetings increased at such times to the extent that the NLTF had, sometimes, to meet even on week ends.

Their contributions have mostly concentrated in guiding consultants in their work and reviewing of reports on sectoral legislation and examining new drafts by other government agencies.

An attempt has been made to make the composition of the NLTFs inclusive by including in their ranks NGOs, parastatals and representatives from the university.

The quality and extent of involvement in NLTF activities may be variable. While there may be a number of individual task force members, particularly those who have a direct stake in the process, there are also those who attend the meetings just because they have to.

The fact that NLTF members have been led to expect, during their inaugural meeting, a larger amount of incentive but the expectation has not been followed up is considered to have had a negative impact on morale.

Since the implementation of the six month work plan commenced In NCC meetings in Kenya are being held on a regular basis. Initially, the meetings of the NCC were very frequent. They have become less frequent after the national consultants started working. The secretariat for the NCC which is responsible for coordinating project activities at the national level calls the meeting of the NCC as necessary. All of the members except one from the university, are representatives from government organizations. However, NGOs and the private sector are co-opted for review of reports and other products of the project.

So far the Ugandan NCC has only met once and that was during its inauguration. At that first meeting the NCC has agreed to hold its meetings once every month. It has not met since. One reason given for not having a meeting of the NCC is that since the money for their sitting was not available the members could not be invited to a meeting. Before the NCC was created there were a few preparatory meetings for consultation. It was only after that the inaugural meeting took place in August 1995. The present project coordinator serves as the secretary to NCC and the Ugandan focal point for the sub-regional project. The membership of the NCC consists of diverse government organizations and one representative from the faculty of law of Makerere University.

At that first meeting the NCC has made a number of important recommendations regarding the need to prioritize issues to be dealt with under the project, the selection of consultants, the need to avoid overlaps, the need for Uganda not to be bogged down because of the slowness of other countries, the need to make the preparation of environmental laws participatory and the importance of using nationals as consultants to enable capacity

building and continuity.

The other structure of the sub-regional project is the sub-regional team of experts. This team is supposed to be a body dealing with technical issues.

Governments may need to work out some of the potential operational problems facing this sub-regional body.

For example the institutional arrangements in Uganda are such that they have lead agencies which are normally mandated in the areas identified for sub-regional harmonization. As a result each such lead agency may want to send its experts to the meeting of the sub-regional team of experts. Thus, a problem of representation at the team of experts meeting arises.

The consultants are also supposed to be members of this team and yet how to retain them after they complete their contractual obligations is not clarified.

Finally, that there may be a need to have experts along side the high policy level members of the SRCC is becoming obvious since the members will need technical assistance in their deliberations. Thus some of the regional team of experts may need to be included in these meetings as necessary.

Meetings of the SRCC have not taken place for a long time. Such meetings will be necessary at least twice a year in order to enable high level policy makers to monitor the progress of the project.

Although Uganda is considered the focal point for the EA sub-regional project there is no clarity about the focal point role that it is supposed to play.

Consultants are recruited in a satisfactory manner depending on the circumstances of each country. Because of the paucity of lawyers knowledgeable in environmental law recruitment and selection was not difficult. In Malawi adverts were posted in the various relevant ministries and agencies. The consultants were selected from among those who responded with their CVs. In Uganda the project Coordinator had initially been advised by the Uganda NCC, at its inaugural meeting, to start building a data base of national consultants who can be of use for project activities. Thus, by the time the need for consultants arose they had only to consider the names in the data base and ask those whom they thought had the right qualifications to submit their CVs.

While in Uganda only a small number of NCC members have been involved in commenting on the draft TORs proposed by NEMA for the consultants in the case of Malawi the TF was involved.

While carrying out their tasks the consultants do try to consult with relevant sector agencies



or line ministries. This kind of consultation has been limited though. They find the consultation process time taking because of the difficulties involved in getting people to talk to them.

There is a feeling among the consultants that there has not been adequate linkage among them for purposes of coordination such as working out joint time tables indicating periods for accomplishing certain parts of their task at given times.

They also consider that exchanging each other's drafts would have been useful.

The national consultants, in some cases may be very active and consequently pushing the project coordination offices to move faster.

## 6.2 UNDP/COs

The UNDP/COs appear not to have been informed about their roles in the project implementation. They have been given the agreement between UNEP and UNDP at the November 1995 consultative meeting. That agreement does not dwell much on what the role of UNDP and its COs is. Much of it is about finances. On the other hand the main project agreement between UNDP and UNEP has an annex describing what each collaborating agency will be responsible for in the implementation of the project. These may be one of the reasons why some of the COs were not responsive initially.

Some of the SDAs have also spread themselves out thinly because of the number of other programmes and activities they have to deal with. Constant changes in SDAs has not also been conducive to continuity.

The delay in passing over responsibility for the sub-project in Burkina Faso could have been avoided if the UNDP CO and the IUCN Burkina worked closely together to make UNOPS understand that they need the sub-contract agreed upon to get some funds so that they could come up with work plans and detailed budgets. UNOPS was insisting at the time that before the sub-contract is signed it has to have such work programme and detailed budget in accordance with UNOPS budget.

Even after the November 1995 consultative meeting some COs such as the one in Tanzania have not been responsive to the needs of the sub-regional project to which that country is a beneficiary.

But in a number of cases the special effort and drive of The UNDP/CO SDAs seems to have contributed significantly to the way activities have been performed according to work plan. Sao Tome is a case in point. It is possible that, however, when the SDAs are so energetic, they may disregard the participatory nature of the process particularly as the sub-

projects are supposed to be executed by country institutions and personnel.

## 7. REPORTING MONITORING ASSESSMENT

The various reporting requirements for the project are set out in the joint Project document, the agreement between UNEP and UNDP as well as Sub-Contract agreement between UNEP and IUCN.

The nature of the reports can, broadly, be categorized as progress reports, financial reports and monitoring and evaluation reports.

When, how and to whom the various reports are to be made are described in the majority of cases. The formats for a number of these reports are also attached to the project document. As a result of the large number of actors in the project the sources and users of the reports are equally numerous. Formats for reporting are attached in the Joint Project document but do not seem to have been used strictly as initially envisaged.

In some cases there is lack of clarity. For example who prepares the evaluation reports on project implementation effectiveness. It is not clear by whom the evaluation reports regarding the effectiveness of project in each country are to be prepared. Thus, the format for monitoring effectiveness of project implementation in the beneficiary countries which is attached to the joint project document has not been so far used.

The beneficiary countries visited by the consultant have not used the format or any other systematic method of reporting regularly so far. They realize that in the past their reporting about the project has not been consistent. They are not aware of any systematic reporting obligation even though the work programmes developed in 1995 contain requirements for reporting.

Since the November 1995 consultative meeting the UNDP/CO in Malawi and Uganda are preparing reports about activities and financial use following UNOPS format. These reports are sent by the COs to UNDP/ CO Nairobi with a copy to UNEP. The Nairobi CO sends the report to UNOPS after consultation with the TM .

UNDP Capacity 21 has dispatched on April 25, 1997 to the TM's office and to the other cooperating agencies the progress report presented at the fifth PSC meeting in November. The report has not been disseminated until April 97 because all the country reports have not been submitted on time. The report consists of individual reports regarding implementation of project activities in the beneficiary sub-project countries. Each report varies in approach and content. There is obviously a need to have a standardized format which will help reports to focus on all essential information in a similar manner.

Thus, much attention has not been given to reporting.

This deficiency may not have been given attention so far because project management was occupied with the frustrating task of working out the proper and appropriate operational modalities at the various levels of the project, needs to be rectified.

Although the background discussion is not described reporting from the country level must have been discussed at the fifth PSC meeting where the representative of Capacity 21 had promised to submit a proposal which will help to monitor implementation of progress of project activities as well as indicators which will show whether the project activities and resulting outputs were serving the attainment of project objectives both immediate and long term. His proposal included the use of the LFA to develop indicators which can be used for monitoring and evaluating the project systematically.

Capacity 21 is planning to hold a workshop in June, 1997 to train SDAs on how to develop indicators to ascertain whether the project is attaining its objectives. It will also update the SDAs on the status of overall Capacity 21 programmes.

So far UNEP has been preparing and submitting to the Dutch government yearly financial and accounts audit reports. It was not possible to include in these reports UNDP's financial position to date because UNEP has not received them.

The TM's office has been reporting on project implementation at the PSC meetings. These reports have been useful to keep PSC members updated about project progress.

Workshop and seminar evaluation reports have also been prepared for the two training workshops/seminars so far undertaken. These evaluation reports have been a good means of ascertaining if capacity building through training is addressing felt needs.

## **8. COLLABORATIVE ARRANGEMENT**

This project is a unique experiment in collaboration between UNEP and UNDP (collaborating agencies) as well as cooperation with other organizations such as the WB and IUCN( cooperating agencies). As the only one of its kind it did not benefit from lessons which might have been learnt in the past by other attempts. Thus, it should not be surprising that it has been beset with several problems. It may be that even with the present modalities of operation in place there may still be some problems cropping up now and then. That is something to be expected in any project. No project implementation can be perfect particularly a project of this nature involving as it does, UN organizations and agencies, governments and an NGO.

### **8.1 THE COLLABORATING AGENCIES**

The collaborative arrangement between the core agencies has faced a lot of strain. The main reason for this strain is in built in the Joint Project Document itself which divides what

should be conceived as one project in to two projects run by two different agencies. While the purpose of having the PSC and the T's office in UNEP has been to lead the management of the project as a whole these structures could not really exercise control over events in UNDP NY easily. When UNDP NY sub-contracted the management of its project to UNOPS a third unanticipated actor came into the picture complicating the process even more. It should not be surprising if UNOPS, which, contractually, is accountable to UNDP would want to follow its own operational modalities and consider what it is doing not a part of one overall project but only as a project of UNDP. As a result they may not have paid too much attention to project management in UNEP because the Task Manager is in Nairobi and New York is too far from Nairobi.

The novelty and, hence, the unfamiliarity of the collaborative venture may have, initially led the agencies to become defensive and protective of their own systems of operation and not seek promptly possibilities and new avenues which could make possible bypassing the usual procedural technicalities. For example the possibility of bypassing the UNDP NY and UNOPs by agreeing that UNEP send funds directly to UNDP /COs could have been entertained. There may have been behind all this, conflicts of which the core agencies were not aware of but which are normally expected as a result of feelings of jealousy about their turf and the superiority of their agency vis a vis the others. Such an atmosphere is considered not to have been conducive for getting the project outputs and the impacts as planned by some of the project stakeholders.

In such a case, Capacity 21 need not have to sub-contract UNOPS or, for that matter be involved in any financial management. Such an arrangement would have only required UNDP to explain to the CO's this arrangement and their role at the country level would have remained basically the same except that in terms of financial arrangements and reporting they would have to report primarily to UNEP where the project office is situated.

Even though belatedly, the PCS and the T's office have taken up the challenge to make the collaborative arrangement work. UNOPS has been encouraged to attend the PSC meetings and that certainly seems to have helped them to appreciate more the nature of the project. As a result the agencies are slowly learning that flexibility and compromise are basic requirements for collaboration.

It was at the November 1995 consultative meeting that it was agreed that COs report on sub-project implementation and financial expenditure using UNOPS format but with a copy to the TM's office and a system for communication has been agreed upon. Thus, things seem to be working quite well right now and there may be no need to change them provided they continue to work reasonably well.

Having now acquired knowledge and insight of the kinds of problems that can arise if adequate care is not taken at the stages of inception and formulation of a project such as this it may be easier for the collaborative arrangement to anticipate and take into account potential problems. Eventually such trials may lead to a reorientation in the ways the

agencies have been going on rendering technical assistance for capacity building.

However, unless it is made clear in advance there may be danger that some of the agencies which are party to the collaborative and cooperative process may consider the project as merely an experiment in interagency collaboration and that what counts is the lessons learned in such an endeavor. Such an attitude gives second place, if at all, to what should be the primary objective i.e- the attainment of project objectives as laid out in the project document is secondary even though it has been very clear from the very beginning of the inception of the project that the objective is to help African Countries to build up their environmental legislation and institutions as well as to build their capacity to carry on the effective implementation.

The fact that the project is split in to two at the top while it is disaggregated to country level at the bottom with proxy management arrangements and the diversity of national implementation agencies may have made it difficult to strictly control the implementation process. The span of control over country activities is minimal in a situation where the person responsible for overall project management ie- the Task Manager's Office is in Geneva and the sub-projects are scattered in a number of countries. Because of the nature of the project and the approach used there are a lot of imponderables which cannot be anticipated and controlled that affect project implementation.

## **2. THE COOPERATING AGENCIES**

The involvement of the cooperating agencies in the project at the PSC and field levels has been very useful and productive at the start up period of the project. FAO, IUCN and to a certain extent the WB have programmes pertaining to the legal and institutional aspects of environmental management in the beneficiary countries. They also have different specializations in the environmental legislation field which were used in this project not so much for the provision of backstopping services as for contribution through comments on projects etc.( e.g- FAO -fisheries, forest and water while IUCN in framework legislation and biodiversity).

By being able to contribute in this manner the cooperating agencies themselves have benefitted from increased knowledge about each other and the activities on the ground in different countries.

## **3. FINANCIAL ARRANGEMENTS AND SUSTAINABILITY**

A trust fund for the project was established in 1994 with a grant of \$ 5,000,000 from the Dutch government. Agreement between UNEP/Dutch and UNDP was to share the fund equally between UNEP and UNDP at 70 and 30% proportions respectively. Although there is supposed to exist an MOU regarding the sharing arrangement between UNEP and UNDP there are, reportedly, only unsigned copies in existence.

At the initial project agreement UNDP was expected to contribute \$600,00 while UNEP was expected to contribute \$ 300,000. Although UNEP has paid up its share of contributions in full in terms of covering personnel costs UNDP has not done so. At present C21 is trying to find out how much contribution it has made to the project from its own funds so that they will be able to contribute any shortfall of the agreed US\$ 600,000.

The Task Manager of the project coordinates the use of both portions.

Regarding the mechanism for financial requests, fund authorization and release there could have occurred some serious problems of delay in the period between May and November 1995. This was the period when Capacity 21 has just transmitted the UNDP project document to UNOPS and UNOPS was revising the project and making it ready for implementation. On the other hand it was about this time that work plans were finalized for the sub-projects and funds were needed to start implementation of work plans. The delays in streamlining financial flow and in the preparation of work plans were concurrent until May 1995. This problem was soon eliminated to a large extent as a result of the consultative meeting held in November 1995 and the flow of funds is considered satisfactory at present.

Before UNOPS took over the implementation of UNDP's part of the project Capacity 21 was reportedly meeting requests for funds from the UNDP.CO's and the sub-projects and charging it to a project known as Programme Development Project (INT 93 G 81).

The period between the time when Capacity 21 sent its project document to UNOPS (JULY, 1995) and the Consultative meeting in November 1995 would definitely have been difficult months for fund request approval and disbursement since clear modalities in this regard were only agreed upon in November 1995 when a consultative meeting took place at which UNDP/CO representatives from the beneficiary countries and IUCN (Burkina Faso) took part. After the consultative meeting the situation has generally improved and funds are being approved as per agreed work plans on a six monthly basis.

The purpose of the consultative meeting was to resolve the long standing communications problems and the unsatisfactory financial request and disbursement mechanisms as well as to brief and sensitize the UNDP/CO representatives about the project background, the link between Capacity 21 in New York and the CO's responsible for facilitating the implementation of the sub-projects in participating countries and sub-regions.

In terms of processing requests from countries either for finances or approval of work plans delays also appear to have occurred to at UNDP CO Nairobi. This was because of shortage of personnel and at the level of UNDP/UNOPS. Due to turnover of personnel, follow up on country requests were some times delayed because often there was no responsible person to act on them and transmit requests to Capacity 21 New York and/or OPS. The situation at present is stable because the problem of turn over seems to have been curbed.

During project formulation period OPS was part of UNDP. However, OPS came into its own in 1995 when a decision was taken by the UN to make it accountable directly to the UN secretariat as UNOPS. It appears that UNDP never consulted UNEP before it handed over implementation of its part of project activities to UNOPS. This fact was made known to project management in August 1995 prompting project management to propose and subsequently to hold the consultative meeting.

Regarding reporting the use of funds by UNDP there seems to have been serious problems. In November 1994 UNEP made an initial cash advance of \$ 716,000 to UNDP. This amount was sitting in UNDP's UNEP account and SEEDS financial staff did not know what was for and, apparently, did not inform the staff of Capacity 21. It was only in mid 1996 that this situation was clarified.

There was no request for funds from UNDP from 1994 to 1996. There was, as well, no report regarding the use of the initial advance. Capacity 21 and as a result UNOPS were not aware of the reporting requirements specified in the joint project document until February 1996 when a joint mission from Capacity 21 and UNOPS went to Nairobi for consultations on the financial management issue. The mission resulted in the submission by UNDP, in March 1997, of a draft financial report and a request for a 1997 budget. for consultation. As a result Capacity 21 and/ or UNOPS have not submitted a single financial report for the last three years ( until towards the end of April 1997) to UNEP as envisaged in the joint project document.

According to the UNDP financial report they have spent in 1996 only \$ 201, 659, while they show no expenditure for 1994 and 95. The report also indicates that UNOPS was charging a 10% over head. Since it is agreed in the project document that UNEP will charge 13% fund administration charge over all expended fund money the over all charge becomes inflated. This , of course, has an effect on the amount of money that would be available for actual activities on the ground.

UNEP as the agency responsible for the financial reporting to the donor, is expected to submit yearly reports. Although UNDP's reports have not been reaching them UNEP have been adhering to the reporting requirements and submitting accounts regarding the use of funds in UNEP's hands only and indicating that UNDP have not sent them their part to make possible for them submittal of a report which can show the whole picture.

The consultant has the impression that although the problems with regard to the flow of funds is now satisfactory the financial reporting relationship between UNEP and UNDP may need to be worked out jointly since at present thee seems differences in the systems of accounting of the two agencies. This is what results when responsibility for finances is diffused as is the case in this project. Had a single agency been made responsible for the financial aspects of the project a lot of these problems would not have occurred.

One of the cardinal principles of the project is that the sub-projects will be country driven. In this regard Mozambique and Malawi have taken the initiative by opting for national execution where the funds they require will be at the disposal of the relevant UNDP/COs and does not require UNOPS authorization. Such an arrangement has helped Malawi a lot in expediting project implementation progress. If for some reason the present arrangement fails to function it may be worthwhile for the other beneficiary countries to contemplate national execution. Direct management and disbursement of financial requirements to UNDP/COs may not only create a smoother process but also make the countries more directly responsible for the funds.

The consultant did not attempt to examine the major cost components and related expenditure in order to give an overall picture of fund utilization. This is a task that is better done when the financial picture is complete. It is important that the PSC receive a report regarding this aspect which combines both UNEP and UNDP expenditure.

It may be concluded, however, that compared to what this project is achieving five million dollars is not a lot of money. It may seem, simply at looking at the project activities, that it is expensive. However, there are indications that the activities and the resulting outputs are showing signs that will in the long term bring a qualitative change in the management of natural resources towards sustainability in the beneficiary countries. These changes can only be observed in the degree of awareness, interest and commitment that has been generated in the project countries. These are valuable changes which, even though difficult to cost in monetary terms, are probably worth more than what are called concrete outputs such as review reports and draft laws.

The investment has been worth while.

## VI. CONCLUSIONS

The project has not been easy to evaluate for impact because it deals with process matters. The results of the evaluation from the point of view of performance and delivery of outputs based on the frequently revised work plans indicate that overall progress has been slow with marked improvements after the November consultative meeting.

The initial periods of the project implementation were beset with a number of problems. Problems are to be expected at such initial period in any project. It is only as project implementation continues stream lining its operational modalities as it gets along that consistent progress can emerge. In this particular project, however, even if operational modalities are streamlined and are satisfactory, delays will still be inevitable because of the process nature of the project. But one can talk about delays when there is an expected or agreed time for performing an activity or taking an action. Thus, in the context of this project delay becomes relative since, while it is possible to plan and fix time frames such plans and time frames still depend on so many assumptions that, in the end, the time frame serves only as a point of reference and not as means of measuring progress. In this project it is only in the context and against the initial project duration period ( 94-97) that one can



speak of delays.

Therefore, it will be unrealistic to expect activities to proceed in a clock work fashion with strict adherence to time tables and deadlines. Thus, taking all these factors in to consideration the project can now be said to be moving reasonably well.

All these difficulties should not, however, discourage the core agencies from continuing the collaborative process that they have started.

Things have improved since the November 1995 consultative meeting where concrete measures were taken to come up with a modality for operation of the project at all levels. This conclusion is borne out by the number of activities that commenced in the participating countries in 1996. The achievements and the signs of positive impact that have been observed in the relatively short period after November 1995 are encouraging.

That meeting can certainly be seen as a turning point in the short history of the project. The collaborators should continue patiently making innovative ideas for further improvements and learning as they move along. Thus, there can always be a solution to the institutional problems between the UNDP and UNEP. Cessation of collaboration will mean also that the competition among the agencies will increase while each will go it alone without any attention to what is being done by others. Duplication will intensify and the prudent and effective use of financial resources undermined. Such a situation may not serve well the present and future beneficiary countries.

The important thing is that the mechanisms that are laid out can promptly focus on a given problem and then provide prompt solutions. However, the tendency to look at the project primarily as an experiment which has been undertaken as a learning process in collaboration and cooperation between agencies should be avoided at all costs. This is contrary to project objectives as laid out in the project document. However, any lessons in interagency collaboration learnt in the process of implementing the project for attaining the primary objectives as laid out in the project document should be welcome. And there have been lessons learnt. Thus, it is incumbent upon all the agencies collaborating or cooperating in this process particularly UNEP and UNDP to take decisive actions where they think the attempt at collaborating is affecting seriously project implementation.

It is, therefore, time now for the project to expand in to more African countries which are in dire need of assistance in the area of environmental law and institutions. This time the selection of the countries which the project should serve should take in to account geographical distribution as well.

It may be appropriate to focus the expansion on country specific sub-projects. Before embarking on another sub-regional project such as the EA sub-regional project one should wait for possible lessons to be learnt. Obviously the EA sub-regional project has been complex. Although activities at the national levels, which are within the framework of the

sub-regional project, have started moving, it is still too early to tell whether the final objective of harmonization will materialize. Even if Harmonization is made possible in terms of having similar laws there is concern that the implementation intensity of such laws, particularly as regards EIA and environmental quality standards, could differ from country to country, thus undermining the basic premises for harmonization. In the absence of a sub-regional inter-governmental body capable of ensuring equal implementation of laws it is very hard to see how consistency will be ensured.

Since the first phase of the project has only about a year and half to go it will not be advisable to change course in mid-stream in terms of trying to change the basic operational modality between the two core agencies. The core agencies may consider taking the options presented in the section where recommendations are given both for improving the present management structures and procedures for the short term -ie during the first phase- as well as recommendations made for the long term in the event that the project continues in to a second phase after 1998.

## VII. LESSONS LEARNT

A number of lessons have been learnt in the process of implementing this project to date.

The first most important lessons learnt in this project are those that are emerging in the process of the application of the country driven project concept.

Through the provision of scarce financial resources and only a catalytic role, in terms of providing training both hands on or otherwise, played by external support, beneficiary countries are proving that they can accomplish the objectives of the project by themselves and, in the process, developing the skills and knowledge required to continue the process.

The process has also proved that, if applied correctly and adequately, ownership of project outputs can be created through the application of a participatory approach at which project outputs are discussed before being finalized as well as after being finalized, thus, ensuring that outputs reflect the social, economic, political and cultural values of the specific setting and that the public is aware about the nature and implication of these outputs.

Lessons are also being learnt by those countries that are implementing the project at sub-regional level. Countries are willing to cooperate vigorously at the sub-regional level only when:-

- there is a clearly recognized problem;
- that the problem is appreciated by all concerned and there is commitment to seek solutions; and

- that adequate human and financial resources are available to start and maintain the cooperation

Along with this positive statements, however, there are a number of considerations to be taken into account. These considerations are set out as follows:-

In order to have long lasting effect the process must continue having regard to the absorptive capacity of each country. Hurrying the process will result in falling short of the intended objectives.

The second important lesson learnt is that joint implementation of a project through a collaborative process is feasible.

Again along with this positive statement there are a number of considerations to be taken into account. These considerations are set out as follows:-

- The process of collaboration in the joint implementation of this project by the two core agencies should be an eye opener to both of them. They should realize that joint implementation of a project, at least this type of a project, does not easily come and that it is a process which has to be nurtured patiently.
- Before collaboration commences it is of crucial importance to work out in detail the operational modalities of the collaboration paying attention to and giving careful consideration to the details of the process and how the institutional cultures of the collaborating agencies can be facilitative or obstructive to the process of collaboration. If this is done before hand the necessary adjustments can be made to minimize or avoid any possible major constraints.
- It is also important to be vigilant and watch out for possible problems that might affect the collaborative process and solve them before they become serious obstacles to the achievement of the programme that has necessitated the collaboration in the first place.
- Personal understanding and sympathetic relationships between the persons of the collaborating agencies involved in the implementation of the project is an indispensable requirement not only to come up with the solutions but also for the solutions to work.

## **8. RECOMMENDATIONS**

### **8.1 Recommendations for the Short Term**

### 8.1.1 Overall PSC

According to project document the PSC is expected to select the beneficiary countries, determine the scope and content of the activities to be undertaken under the project in each country and review its implementation. There were only three PSC meetings scheduled in the work program attached to the project document for the PSC to accomplish these tasks. It is expected to meet only once a year, unless there are reasons to justify a meeting in less than one year. The yearly meetings are obviously for review of the implementation of the project and to provide direction for the following year.

Ideally, a steering committee need not involve itself in detail project management activities once it approves the policies, plans and work programmes of the project. It should only limit itself to review progress of the project through occasional sessions where it should make an assessment and give directives for subsequent operations. Such review should be based on reports to be submitted to it by the Project Management Office within UNEP.

Although in the beginning it may have been necessary to have a larger membership which included the cooperating agencies in order to reach agreement on how to coordinate the activities that the cooperating agencies have in beneficiary countries, this aspect is no more a major preoccupation for the project at present.

### RECOMMENDATIONS

1. PSC should meet, unless there is an extraordinary cause, only once a year:-
2. At its meetings PSC should confine itself to hearing yearly reports on the process of project implementation as per initially approved plans and budgets and then deliberate upon the reports and give general direction regarding work plans and budgets for the following year.

*Note:- PSC feels there may sometimes be need to meet between the regular yearly meetings recommended by the consultant.*

### 8.1.2 Consultative and PMC Meetings

1. Further consultative meetings need not take place as separate events;
2. The PMC meetings need to continue as they are very useful in supporting TM's office in project implementation matters requiring prompt attention
3. Whenever broader consultation is required PMC be broadened to include parties considered relevant to such consultation
4. Some of the PMC meetings be used to accommodate the need for having

representatives of beneficiary countries governments which, at the moment feel left out.

5. the EA sub-regional project be steered at the meetings of the SRCC meetings with the presence of UNEP and if necessary the Dutch government representative in Nairobi.

***Note- The PSC feels that, when ever necessary, at least some of the members of the PSC should attend PMC meetings and that this may be done on a rotational basis***

#### 8.1.3 TM's Office

The TM's Office requires strengthening in terms of expert human power. This strengthening becomes even more urgent if the consultant's proposal that project activities expand in to more African Countries is acceptable.

### RECOMMENDATION

1. At least one P3 or P4 level officer be recruited as soon as possible.
2. Recruitment be done with a view to building up a bilingual capability within the TM's Office

#### 8.1.4. Work Plans

Project planning needs a lot of strengthening. It is not surprising that the initial overall Project work plan contained in the project document has not been of much use. Again, the problem here is that the project has been, by necessity, disagregated into sub-projects being implemented in the beneficiary countries. The reality at present is that work plans for each country, which do not consist necessarily of similar activities and time tables, are being developed and implemented. The objective reality has led to this situation. However, there is some room for improvement in work plan preparation and implementation with out compromising the flexibility required to accommodate changes in the priority of implementation of activities.

### RECOMMENDATIONS

1. project planning commencing from the objectives of the overall project, the objectives of the sub-project as well as the outputs and activities required to attain outputs be developed for the remaining one and half years of project life.

2. the work plan identify all activities required to attain the outputs and provide a time table for beginning and completing each activity, for producing each output the budget required to undertake the activities, and the reporting requirements and periods of reporting as well.
3. indicators for monitoring and evaluating project implementation according to the work plans be specified within the work plans.
4. although the LFA may be used as a tool to develop these work plans a lot of time and effort should not be spent on it since it is not absolutely essential at this stage of project implementation. The LFA may be considered in the process of developing the second phase of the project.
5. more detailed quarterly or six monthly plans also be developed in detail based on the overall work program.
6. quarterly or six monthly reports be submitted;
7. the processes of planning be, initially, undertaken by the beneficiary countries themselves. This will be necessary from the point of view of strengthening country driven aspect of the project. In addition it is very useful from the point of view scheduling activities realistically since the countries will take into consideration the time it will take to start and complete activities within the specificity of their own countries.
8. the draft work programme be subject to consultation and agreement by the UNEP project office which should comment on the activities and plans from the point of view overall project objectives and requirements.
9. the process be as consensual as possible.

#### 8.1.5.CAPACITY BUILDING BY TRAINING

The opportunity to broaden impact from the training workshops and seminars is present and should be used. Provision of reading and reference materials on environmental law is essential particularly to ensure that materials are kept updated for new developments in the field of environmental law and institutions. Both law faculties and coordinating government institutions are well placed as locations for such materials. In addition workshop and seminar materials should be prepared as modules and participants should be used to train in country other people.

#### RECOMMENDATIONS

1. all agencies, particularly UNDP through its COs Capacity 21 programmes,

and as well as bilateral donors and NGOs promote follow up on training workshops and seminars by preparing course materials as modules and promote similar workshops to be undertaken by participants in countries.

2. consider supporting and strengthening resource centers for reading materials which will assist policy development, research and training.
3. country government's implementing agencies consider beefing up project coordinating offices with additional lawyers
4. the project give more attention to building up the capacities of universities to provide training in environmental law on a sustainable basis.

#### 8.1.6 UNDP/COs

There is a likelihood that some of the SDAs in UNDP /COs may have spread themselves too thin because of a high turn over rate of the JPOs who are supposed to assist them. As a result they may be unable to give enough attention to the sub-projects in the beneficiary countries.

#### RECOMMENDATION

the provision of additional assistants be considered by UNDP in terms of JPOs, preferably nationals of the country the CO is located in. This is absolutely necessary if the COs are to give the project the attention it deserves.

#### 8.1.7. BACKSTOPPING

The participation of the experts of the cooperating agencies in providing comments both on the implementational aspects as well as on the outputs of project activity has been very useful.

Although it might have been necessary at the beginning to send more than one missions to project beneficiary countries to strengthen the cooperative spirit with which the project was conceived there is no more need for such missions at this stage of project life.

#### RECOMMENDATIONS

1. the need for external assistance continue to be decided upon by the beneficiary countries themselves;
2. consideration be given, in every case of request for backstopping, as to whether it is really necessary to send a mission as opposed giving the advise

and comments sought by mail;

3. when it is deemed not appropriate to make comments and give advice from the head offices of the backstoppers and a mission is required only one person be sent.
4. consideration be given to the preparation of detailed guidelines regarding approaches to the drafting of various legislation in order to reduce the need for backstopping.
5. Such guidelines be sent only to those consultants who request for them.
6. the consultants be made aware of the availability of the guidelines by the national project coordinators.

*Note- PSC feels very strongly that face to face is necessary and, therefore it should continue.*

#### 8.1 8. Process

The countries visited have identified their need to intensify the participatory approach and taking it down to community levels. The project document identifies grassroots communities as one of the targets of the project. At the second consultative meeting held in Lilongwe in December 1996 a proposal was made that future workshops include community based management of natural resources in order to sensitize grass roots communities about environmental concerns and the need to take into account such concerns in the development process.

#### RECOMMENDATIONS

1. more grassroots NGOs and other representatives of civil society be represented at such appropriate fora as the consensus building workshops
2. the UNDP/COs, within their Capacity 21 programme framework, support sensitization workshops at grass roots community levels by assisting the preparation of simplified versions of the laws and regulations that have been prepared under the project and the holding of the necessary workshops

#### 8.1.9 Incentives

The issue of incentives to the project coordinators has become critical to the successful implementation of the sub-projects. High level officials of the visited countries are very emphatic about this. This issue has especially been coming up in the EA sub-regional project context. Many international organizations are paying the salaries or providing top



ups to the salaries of project coordinators. The only exception appears to be this project. Providing incentives will not, of course, assure continuity if the project is phased out abruptly before governments are in a position to pay living wages to their employees.

#### RECOMMENDATION

The PSC reconsider possibilities and sources and provide some sort of top up to the salaries of the project coordinators.

*Note- The PSC feels strongly against topping up salaries.*

### 8.2 Recommendations for the Long Term

#### 8.2.1 PROCESS

The project document is keen about making the whole project implementation as participatory as possible. In fact the extent of the participatory approach in the beneficiary countries is set out as one of the requirements for their selection.

In addition, one of the uncommon aspects of this project is that there is no official agreement between each of the beneficiary governments and the Project implementors. Official project agreements with governments would have increased ownership and as a result expedited a more reasonable pace of project implementation. The existence of such agreement would also help the nationals who are involved in executing the project to have more leverage against other government agencies to expedite measures necessary for timely implementation of the project activities (eg timely recruitment of additional personnel).

#### RECOMMENDATIONS

1. participating countries be selected first and then be involved in the development and design of the overall project.
2. the use of the LFA as a planning tool be considered for completing the development and design of overall project and sub-projects.
3. no project be started unless an official agreement is entered into with the government agency which has the authority to do so.
4. project design incorporate activities at community levels.

*Note- Regarding formal agreements PSC emphasized the need for flexibility since such agreements may not be essential in every case.*

### 8.2.2 SC Mechanism at Sub-Project Level

Seen from the long term perspective there is a need to reflect on the nature of this project. It is obvious that the project constitutes of a number of country sub-projects and one sub-regional project. It may be impractical and ineffective to try and steer all this sub projects only from Nairobi. On the other hand having SCs at the level of countries has been proved quite useful as in the case of Malawi where they have such a SC and have found it extremely useful as a means of coordinating activities of the various agencies involved in environmental law and institutions.

### RECOMMENDATIONS

1. the SC mechanism be also taken down to the country level where the need for coordination can be closely attended too.
2. The membership of the NCS at the country sub-project level be decided upon by each sub-project country so that country specific conditions can be taken into account. However, including in the NSCs UN agencies and donors etc. providing assistance for environmental legislation and institutions related activities is important.
3. the NSCs at this levels be chaired by the beneficiary government member in the NSC in order to truly reflect the country driven nature of the respective sub-projects.
4. the sub-regional project be steered by the sub-regional SC at that level with UNEP participating and, if required, the presence of the representative of the Dutch government

### 8.2.3 UNEP/ UNDP Collaborative Arrangement

One of the major problems facing the project has been that of financial management. The root cause of the problem appears to be the splitting of one coherent project in to two parts to be implemented by UNDP and UNEP respectively both allocated amounts of funds to carry out their tasks. Although it is stated that the overall project will be coordinated by the project office in UNEP the complications of management that will eventually surface as a result of the remoteness between Nairobi and NEW York, particularly as it relates to UNOPS which is one step further removed from UNDP as well as difference in institutional culture and the impact it might have on implementation was not anticipated in time.

The time it took to develop an operational modality to ameliorate the problems has seriously affected the progress of the project to the extent that it was almost a stand still situation. Eventually due to the recommendations and decisions of the consultative meeting

held in November, 1995, the situation of fund authorization and release has improved. However there are signs that the problems have not been totally solved.

#### RECOMMENDATIONS

1. the core collaborating agencies i.e UNEP and UNDP take the initiative and consult on the possibility of doing away the situation where the project is split into two. Assumption:- collaboration will continue on a second phase)
2. the two agencies try to agree on the following:-
  - the funds for the project be held and managed by UNEP which should be able to disburse required amounts to the UNDP/COs directly based on agreed work programmes and budgets. This way the fund authorization and disbursement mechanism as well as the reporting requirements will be simple and manageable. Management can be facilitated if project executed by UNEP directly through UNDP/COs. (Assumption:- no technical or legal constraints to move this way)
  - UNDP NY sensitize the COs on this arrangement
  - Capacity 21 give, whenever necessary, backstopping services to the country offices;

#### *ALTERNATIVE RECOMMENDATIONS BY PSC*

1. *Use the national execution mode which will make possible for beneficiary countries to access required funds directly from UNDP.CO.s. This has the Additional Advantage of having official agreements with governments which to date do not exist except for Malawi and Mozambique which have earlier opted for this type of execution; or*
2. *UNEP directly send funds to the project countries which will be directly accountable to UNEP for use of fund and reporting*

#### 8.2.4 TASK FORCES

Despite the fact that there are members who are interested and dedicate themselves to active participation at the meetings of the NLTF there is some problem of attendance and high turn over of members if the results of the interviews in the countries that were visited is any thing to go by. The reasons for absence from meetings is sometimes attributed to the fact that members get caught up in other duties while at other times it is attributed to the fact that they are not being paid the allowances that were initially promised to them by the project. Both problems are serious since each member was elected to become a member of

the NLTFs primarily on his or her potential to contribute to the deliberations of the NLTF. The NLTFs, also, appear to confine themselves to approving work plans presented to them, the selection of consultants, the review of the products submitted by the consultants. They are not really involved in directing the overall implementation of the project activities.

In the case of Malawi and Uganda the project is really run by the project secretariats or project coordinators.

#### RECOMMENDATIONS

1. the NLTF consist of smaller number of dedicated people who are likely to be those who have a direct stake in the activities of the project;

*Note- PSC feel that there is no need to reduce the number of NLTF members*

2. no promises be made regarding the provision of sitting allowances unless there is certainty that the promises will be kept.
3. the project coordinators offices, which are (at least in the countries visited) the driving force behind implementation of project activities be strengthened by additional human power.

#### 8.2.5 Financial Sustainability

The joint project document envisaged that other donors will be approached to put additional funds in the Trust Fund to enhance the financial sustainability of the project. Given the present economic circumstances of the countries it is very likely that the momentum created and sustained by the project will grind to a stop if support is discontinued abruptly.

#### RECOMMENDATIONS

1. PSC discuss ways and means of getting additional funds for the present trust fund from diverse sources of donors and proceed to start dialogue with such donors.
2. In addition to what the Dutch government may want to contribute to the fund it may be worthwhile to consider approaching other bilateral donors such as DANIDA, NORAD, SIDA and USAID
3. UNDP consider the possibility of the COs making an effort to ear mark in their IPFs funds which can be used for the activities of this project.
4. FAO and IUCN consider contributing to the fund

**Process of Setting and Starting up the Sub-projects**

The process of starting up the project in the sub-project countries involved establishing NTFs and preparing work plans. The initial work plans had to be revised again to ensure that they were prepared in accordance with the decision passed by the 2nd PSC meeting which was yet, at the stage, considering the appropriate ways and means of developing the work plans and their implementation in the beneficiary countries. At its 2nd meeting the PSC made the following decision regarding the preparation of work plans:-

work plans should be developed through national consultative mechanisms;

each government may initiate this consultative process through the establishment of a national task force on environmental law and institutions whose members should be drawn from a diversity of stakeholders including representatives of various relevant government institutions, NGOs, Universities etc.;

UNDP's SDOs at the respective country offices should service the task forces;

All projects will be nationally executed;

UNDP/CO SDAs in each project country will serve as points of contact in the government for the development and implementation of the country projects; and

the development of the work plan be undertaken within a government institution which is most appropriate for dealing with issues of sustainable development so as not to make the environmental law programme a separate parallel activity.

the national task force will steer the process leading to the development of an appropriate work plan and give leadership at the national level for the implementation of such work plan.

As a result of this decision missions had to be sent twice or in some cases more than twice. The following is the process by countries:-

1. Burkina Faso

Joint or Interagency mission was fielded to Burkina Faso from 13 to 22 August, 1994. During the mission a draft work plan was prepared in consultation with the government. The work plan was submitted to the 2nd SC meeting held on Sept 30th, 1994. A revised draft which took into account comments made at the Committee Meeting was sent to the Government for comments in November 1994.

A second interagency mission was fielded to that country from January 30th to 6 th February, 1995. During the mission draft work plan was finalized, terms of reference for task force prepared, reports and monitoring requirements as well as general modalities of project execution agreed upon; During discussions land tenure reform, forestry, wildlife, water, fisheries and mining as well as desertification were identified as possible areas of focus for both Burkina Faso as a country as well as for a possible Sahel sub-regional project.

By the time the Fourth SC meeting the process of giving a sub-contract to IUCN for implementing the Burkina Faso sub -project has only reached a stage where a draft contract between UNOPS and IUCN was finalized. This draft contains a work programme and a budget prepared according to the requirements of the Burkina government.

In september 1996 the sub-contract of project activities in Burkina to IUCN was finalized.

## 2. Malawi

In October 1993, UNEP ELI/PAC staff undertook a scoping mission to Malawi to determine the scope and content of assistance needed in the country and areas of future assistance. The follow-up mission was undertaken in February 1994 by a UNEP ELI/PAC staff, in anticipation of the implementation of the Dutch-funded Project.

A third mission to this country was fielded between the 13th and 18th August, 1994. The mission consisted of UNEP and UNDP Capacity 21 representatives. As a result of this mission a preliminary work plan which builds upon previous UNEP, FAO and UNDP assistance was prepared and submitted to the 2nd SC meeting on 30th Sept. 1994.

Building upon the programme of assistance that UNEP has carried out for the development of Malawi's Draft Environmental Management Bill, the mission in consultation with the Government prepared a tentative work plan. This report was presented to the Steering Committee in September 1994.

On 28 February 1995, the Government wrote to UNEP ELI/PAC requesting for mission to finalize the work plan, launched the national legal task force and finalized the draft bill which the Government had sent to UNEP.

A fourth follow up mission, this time including FAO, was fielded from 7-12 April 1995, which is 7 months after the 2nd SC meeting.

During this mission the national legal task force was established, the TOR for the task force was prepared, work plan was finalized.

## 3. Mozambique

Activities for the implementation of the Joint Project in Mozambique started on 8 July, 1994 when a tripartite meeting was held between representatives of UNEP, UNDP and the Government of Mozambique to develop an appropriate work plan.

As a result of the meeting an initial proposal was made by the Mozambican government based on which a mission was fielded to that country from 21-26 of November 1994 by UNEP which resulted a draft work plan. The plan was agreed to by the government and the mission members. During the same period the TOR for the task force was prepared a national task force established. The names of the task force members was formally transmitted to UNEP by a letter of 25 Nov, 1994.

On the sixth month after the 2nd PSC meeting an interagency meeting was fielded to mozambique from 6-10 March, 1995. This mission met with FAO, WB and Dutch embassy representatives in Maputo as well as with government representatives including members of the task force which was established previously. A work plan was developed with government representatives and members of the task force and a work plan was agreed upon and finalized with a timetable for the implementation of the project. The task force was launched.

At the Fourth Steering Committee meeting, members expressed their concern about the work plan. This concerns related to the relevance of some of the activities to project objectives and their value to sustainable development efforts and the need to make linkages with Capacity 21 programme. The PSC instructed the TM to advise the Mozambique UNDP CO on the preparation of a revised work plan.

By the time of the Fifth SC meeting the pace of project activity in Mozambique was still slow. The fact that the National Coordinator fell sick is given as one of the cause for the delay. A six months work plan was prepared in February, 1996.

#### 4. Sao Tome Principe

The project in Sao Tome and Principe started when UNEP fielded a consultancy mission from 9 to 23 August 1994 to draft a framework environmental law.

The mission, in collaboration with the National Task Force, finalized the country work plan and drew up the timetable of activities. By February 1995 the national task force was already setup. A national consensus building seminar was held on 18 and 19 May 1995 to discuss the draft framework bill.

An inter agency mission was mounted in May 1995 to assess the needs of the country, finalize a work plan and launched the National Task Force. The minutes of the 3rd SC meeting indicate that six months work plan was approved during which period a review of existing sectoral laws and national consensus building work shop will be undertaken. A national consensus building seminar that discussed the report and recommended priority sectoral laws and implementing regulations for enactment and amendments took place from 29-30 August 1996.

Following a decision taken at the Consultative Meeting (16-17 November 1995) to the effect that implementation plans in UNOPS nomenclature be prepared for each country on a six monthly basis, an implementation plan was prepared for Sao Tome and Principe on the following activities:

#### 5. EA Sub-regional Project

A UNEP ELI/PAC staff member was on mission to Kenya, Tanzania and Uganda from 31 August to 7 September 1994 to present and discuss a preliminary work plan formulated by UNEP and FAO to the Governments. During the meeting, the Government officials of the three countries suggested a widening of the scope and implementation of the sub-project to include training and dissemination of information on environmental law. In general, the Governments expressed an interest in the project.

An initial meeting of high level representatives of the participating country governments was held from 30th to 31st of January 1995. This meeting agreed on a work plan for dealing with the following three areas:

1. Harmonization of relevant national laws within the three countries regarding shares resources and transboundary environmental effects;
2. Review and evaluation of the progress made in each country on their country sub project activities;
3. Training and education in environmental law, particularly the introduction of environmental law programmes in their universities and established the following structures for the implementation of the work plan:-

At the National level a NCC to be responsible for national level project plans.

At the sub-regional level a SRCC made up of high level officials of the participating governments to meet occasionally to oversee the sub-regional dimensions of the project; and

A team of experts of not more than 3, to meet at the sub-regional level for the purpose of harmonizing of standards and exchanging experience in the drafting of national experience.

In terms of immediate follow up activities the meeting decided that:

1. detailed and scheduled activities for the country sub-programmes be prepared.

2. NCCs be established by 15th March, 1995. ( by the 5th of May, 1995 list of national coordinating committees have been received from Kenya and Uganda)
3. A meeting consisting of two representatives from each country take place on the 17th and 18th of May 1995 to develop the time table and modalities for the implementation of activities pertaining to the sub-regional aspects of the project.

The representatives identified the following as priority activities to be dealt with in the first six months of implementation:

- (a) The development and harmonization of wildlife laws of the three countries, including the incorporation of the provisions of major relevant global and regional treaties, in particular, CITES, the Convention on Biological Diversity and the Lusaka Agreement.
- (b) The development and harmonization of environmental standards
- (c) The development and harmonization of the EIA regulations and/or guidelines
- (d) The development and harmonization of Forest Legislation
- (e) The development and harmonization of legislation on the transboundary movement of hazardous wastes.
- (f) The review of the studies done under Global Environment Facility's (GEF) Lake Victoria Environmental Management Programme and to determine how its recommendations can be built into national legislation. In this regard, consultations were commenced with the Coordinator of the GEF project for a possible joint seminar.

A draft work plan for the Sub-regional project (EA) was prepared in February, 1995. That work plan was finalized by the experts of the three participating countries in February 1996. The meeting agreed on the indicative terms of reference and left it to each country to prepare country specific ones, taking into account the work already done at national level. The implementation plan for the execution of the Project in the three countries as a sub-regional project was finalized. A six months work plan was approved.

#### **Outputs that have Resulted from Project Activities to Date**

Framework legislation have been drafted and finalized in all sub- project countries as well as in two of the EA sub-regional project countries (Kenya and Uganda).

However, only in Burkina Faso, Malawi and Uganda have these framework laws been approved by government and promulgated.

In February 1994 in collaboration with local experts, the Draft Environmental Management Bill of Malawi was prepared. The Bill was submitted by UNEP to the Government in March 1994 for its comments.

In the case of Malawi a prior initiative by UNEP, under its own technical assistance programme, to provide with a framework legislation has been undertaken in 1995. In April 1995 government agreed on the broad outlines for the draft framework legislation developed by UNEP earlier. In June, 1995 a national consensus work shop discussed the draft framework legislation. The Malawi framework environmental legislation came in to force in August 1996.



In the case of Uganda a similar law came in to force in 1994. This work has been completed under a different initiative.

The framework legislation for Kenya has been finalized after having deliberated upon at a workshop where diverse sections of stakeholders participated. However, it has not yet been submitted to parliament. Presently it is in the Attorney general's office.

In Mozambique a framework legislation has already been developed before 1994 through a prior UNEP assistance. The draft framework legislation was developed by a consultant in collaboration with a national working group. That draft was commented upon later and parts of it redrafted by the same consultant. The draft framework legislation was submitted to the government of Mozambique by the 9th of September 1994 and was discussed in Parliament in March 1995 where it was decided that some amendments be made in the bill. The amendments have been made and the final product has been placed on the Order Paper for Parliamentary debate in February 1997.

It has still not come into force.

In Sao Tome UNEP also had a prior initiative and a draft framework legislation was developed by a UNEP consultant earlier. The same UNEP consultant was sent on a mission to this country on August 9th and stayed there until August 23, 1994 finalizing the draft for submission to parliament. The final draft was officially sent to the government on 6th, October, 1994.

#### **Sectoral Legislation Review**

Review of sectoral legislation has been carried out in Burkina Faso, Malawi, Sao Tome and Principe. All the reviews have been discussed in consensus building workshops in the respective countries. The review of sectoral laws is currently under preparation.

In the EA sub-project countries such a review is not part of project activities since it has been decided by PSC that activities in those countries focus only in the drafting of laws identified by the sub-regional project beneficiary countries as requiring harmonization at the sub-regional level. However, in both Uganda and Kenya reviews have been carried out and will continue to be carried out for the individual sectoral laws identified as priority within the context of the sub-regional project. For example in Uganda forestry legislation review has been completed and an outline of the areas that need to be developed has been prepared. The review of the institutional arrangements and legal regime for lake Victoria is almost completed while the wildlife act of 1996 currently in operation is in the process of being reviewed. As regards hazardous waste and EIA, reviews have been done earlier under the NEAP process in 1994. It is considered that the review at this stage need not be detailed.

#### **Legislation Drafting**

In Malawi preparations for drafting of sectoral legislation based on the prioritization in the final review report is currently underway and may be completed in the very near future. However, because the country has prepared a forestry policy and was anxious to take the drafting of a forestry law as a priority the TM has given the go ahead and, therefore, the preparation of the Forestry law has been undertaken and was at an advanced stage. Lately they have requested for project support in the review of their fishery legislation and they have been given the go ahead.

In Mozambique while the review of sectoral legislation is going on nine consultants were hired in February 1997 to work on the following six themes:

- (a) Environmental crimes;
- (b) Inspection, Monitoring and Auditing of environmental activities;

- (c) Import and export of hazardous waste;
- (d) Prevention of greenhouse gas emissions that destroy the ozone layer;
- (e) Creation and Management of Protected areas;
- (f) Prevention of Marine and Coastal Pollution.

In Sao Tome and Principe prioritization for drafting have been made at the consensus building workshop as follows:-

- (a) Environmental Impact Assessment
- (b) Extraction of Inerts (sand, limestone, etc.)
- (c) Marine and coastal resources
- (d) Solid Wastes
- (e) Biodiversity (flora, fauna and forest
- (f) Hydraulic resources and basic sanitation.
- (g) entrenchment of environmental provisions into the national constitution.

Currently, consultants are working on:

- (i) draft law on the removal of inerts (an initial draft has already been produced);
- (ii) draft law on the management of wastes:

The drafting of legislation on marine and coastal resources is an activity to be undertaken under current plan.

The EA sub-regional project beneficiary countries have identified six areas where legislation is required for sub-regional harmonization. These areas are

Within the EA sub-regional project only Kenya and Uganda are producing or are in the process of producing drafts on the sectoral laws agreed upon as priorities among themselves.

Kenya has already produced four draft laws in the area of EIA, Hazardous Waste, wildlife. These drafts have already been submitted to the TM's office and are being circulated for comment to the other two countries as well as to the cooperating agencies.

In Uganda two draft regulations- ie hazardous waste & other waste as well as EIA have been produced. In addition, regulatory standards for occupational / ambient air quality, water quality/effluent standards and occupational/ambient standards for noise have been prepared under separate arrangement. The preparation of soil regulatory standards is underway with project assistance. Two consensus building work shops on hazardous waste and EIA are planned for 22nd and 29th of May respectively.

Similar consensus building workshops are where the other reviews and drafts will be discussed are envisaged but not yet scheduled.

### **Training Work Shops**

#### **Sao Tome**

The project supported participants to:-

- (a) a seminar on the implementation of the CITES convention held in Gabon;
- (b) a training on EIA held in Portugal.
- (c) a national seminar on CITES was held from 12 to 13 February 1997 in the country where the presentations were made by participants of the Gabon seminar.
- (d) Five lawyers participated at the training seminar in environmental law for Lusophone African countries held from 14-25 April 1997 in Maputo, Mozambique.

#### **Mozambique**

- (a) a lawyer from the Ministry of Coordination of Environmental Affairs (MICOA) participated at the UNEP/UNITAR/HABITAT global training on Environmental Law and Policy at UNEP Headquarters in Nairobi from 27 March to 13 April 1995.
- (b) the same lawyer participated in the training by attachment programme August 1995.
- (c) one person participated at the seminar on environmental standards
- (d) A Regional Training Seminar on Environmental Law for Lusophone African countries was held in Mozambique from 14-25 April 1997;
- (e) a workshop on implementation of Conventions related to Biological Diversity will be held in Mozambique from 30 June to 4 July 1997.
- (f) there were participants to the Judges and Magistrates seminar held in Mombasa in 1996
- (g) there is a request by the government for convening a seminar for lawyers in government and private practice;
- (h) a proposal by the government that a short course on environmental law be organized in the country to introduce the subject to participants has been accepted by the project. A national training on environmental law has been proposed to take place from 26-31 May 1997.

#### **Burkina Faso**

- (a) A national training on environmental law has been proposed to take place from 26-31 May 1997.
- (b) The Government has sent the names of three lawyers to participate at the workshop on the incorporation of conventions relating to biodiversity into national legislation, Maputo, 30 June to 4 July 1997.

#### **EA sub-regional Project**

The Governments of Kenya, Tanzania and Uganda have sent the names of three lawyers each to participate at

the workshop on the incorporation of conventions relating to biodiversity into national legislation, Maputo, 30 June to 4 July 1997.

### **Equipment**

US\$6000 has been authorized for the purchase of equipment for Sao Tome and Principe

The Government of Malawi submitted a request supported by the UNDP Resident Representative, for the purchase of a lap top to facilitate implementation of the project. The purchase is already authorized.

In addition to a computer, printers and related accessories supplied to Kenya under another project, arrangements are on-going to supply Kenya with a photocopier which the country has requested for. Tanzania has received authorization for the purchase of a photocopier, a computer and a laser jet printer through a project executed by UNDP, while authorization has been given to Uganda for the purchase of equipment.

Annex B List of documents and reports reviewed

1. Project Document- Environmental Law and Institutions in Africa
2. Revision to Project Document
3. Agreement Between the United Nations Environment Programme and United Nations Development Program Regarding Implementation of the Joint UNEP/ UNDP Project - Environmental Law and Institutions in Africa
4. Letter of Agreement Between United Nations Development Programme (UNEP) and International Union for Conservation of Nature and Natural Resources (IUCN) Concerning the Implementation of the Joint UNEP/UNDP Project - Environment Law and Institutions in Africa
5. Agreement Between UNDP and UNOPS
6. Steering committee Reports ( 1-5)
7. Box files containing correspondence
8. Mission Report to Malawi, 30 August to 8 September 1996, by D. B. Ogolla
9. Mission Report to Burkina Faso, 12 to 20 February 1997, by M. A Mekouar
10. Report on Reform of Environmental Legislation in Malawi: Determining the Scope and need for Sectoral Reviews, by G.Z. Banda, 1996
11. Research on the environmental Legislation and the Principal Institutions Connected to the Environment in Sao Tome Principe, by Silvestre Leite, Jose Bandeira and Maria Adilia Lopes, 1996
12. Evaluation Reports for:-
  - Judges and Magistrates Seminar, by E. Torgbor, 1997
  - Workshop on Methodology for Development of Standards, by S. U. Wandiga, 1996
  - Seminar on Comparative Environmental Law, by Ivon d'Almeida Pires Filho
13. Concept papers for planned workshops/seminars on:-
  - Building Partnership with Industries and Manufacturers on the Enforcement of Environmental Law, by TM's Office
  - Environmental Litigation for Layers in Government and Private Practice, by TM's Office
  - Teaching Environmental Law for Lecturers of Law in Sub-Sahara Africa
14. Reports by participants to the Training by Attachment Programme
15. Incorporation of General Principles of Environmental Law with Examples form Malawi (draft), by C. O. Okidi, 1997

16. Partnership in Action : UNEP/UNDP Joint Project on Environmental Law in Africa (unedited Preliminary Draft), by D. Kaniaru and C. O Okidi, 1995
17. Manuscript for Annual Bulletin on UNEP/UNDP Joint Project on Environmental Law in Africa

Annex C. List of persons met

UNEP

1. Michael Evteev  
Fund Management  
UNEP
2. Donald Kaniaru  
Officer in Charge  
ELI/PAC UNEP  
  
Prof. C.O. Okiddi  
Task Manager  
Joint UNEP/UNDP ELI Project
3. Ms. Marciel Yeater  
Legal Officer  
UNEP ELI/PAC
4. Alexander Tomeshenko  
UNEP ELI/PAC
5. Manjit Iqbal  
Legal Officer  
UNEP ELI/PAC
6. Dan Bondi Ogolla  
Legal Officer  
UNEP ELI/PAC
7. Mr. Cheikh Omar T. Sow  
Deputy Director  
Regional Bureau for Africa

UNDP/CO Nairobi

8. Nancy Assanga- Deputy  
Resident representative, country office Nairobi;
9. Sheila S. Mwanundu,  
Environment Advisor, UNDP country office Nairobi
10. Joel Nielson, Programme Officer, UNDP country office Nairobi

UNDP NY/Capacity 21

11. Mr. Roberto Lenton  
Director, SEEDS  
UNDP NY
12. Anita Nirody  
Deputy Coordinator  
Capacity 21, UNDP NY

13. Patrice Boothe  
Administrative Officer  
Capacity 21, UNDP NY
14. Sean Southey  
Environment Specialist  
Capacity 21, UNDP NY
15. Philip Dobbie (phone interview)  
Coordinator  
Capacity 21, UNDP NY
16. Chinwe Dike  
Project Management Officer  
Division of Environmental Programmes  
UNOPS

#### KENYA

17. Mr. Komudho  
Director  
National Environment Secretariat  
MENR.
18. Joyce Onyango  
Project Coordinator  
National Environmental Secretariat  
MENR
19. Mr. Norbert Braakhus  
Royal Netherlands Embassy, Nairobi  
Counselor

#### LIST OF PERSONS CONSULTED IN MALAWI

- A. PROJECT COORDINATORS
20. Mrs E.J Mede  
Principal Secretary, MOREA  
Chairperson of NSC
21. Mr. R.P Kabwaza  
Director for Environment, MOREA  
Chair Person or NLTF
22. Mr. E.M Makewa  
Principal Lawyer, MOREA  
Secretary of NCS/NLTF



B. PARTICIPANTS TO KISUMU SEMINAR ON METHODOLOGY FOR ENVIRONMENTAL STANDARDS

- 23. Mr. H. Ofesi  
MOREA, Lilongwe
- 24. Mr. E.B Kamangira  
Malawi Bureau of Standards, Blantyre
- 25. Mr. M.T Mphasa  
Meteorological Department, Lumbazi

C. MEMBERS OF NATIONAL LEGAL TASK FORCE

- 26. Mr. Kenyatta Nyirenda  
Ministry of Justice, Lilongwe
- 27. Mrs. Theu  
Ministry of Economic Planning & Development, Lilongwe
- 28. Mr. V Kasulo  
Ministry of Economic Planning & Development, Lilongwe
- 29. Mr. C. Mwambene  
Ministry of Local Government & Rural Development, Lilongwe
- 30. Mrs. Lakudzala  
ARET. Lilongwe
- 31. Mr. C. Chalemba  
Ministry of Women & Children Affairs, Community Development & Social Welfare, Lilongwe
- 32. Mr. H. Kazumbo  
Ministry of Irrigation & Water Development, Lilongwe

D. LAWYERS WHO ATTENDED TRAINING BY ATTACHMENT

- 33. Mrs G. Hiwa  
Ministry of Justice, Lilongwe
- 34. Mr. E.M Makewa  
Principal Lawyer, MOREA, Lilongwe

E. KEY PERSONS WHO ATTENDED NATIONAL WORKSHOP ON SECTORAL LEGISLATION IN ZOMBA

- 35. Mr. L.D Sefu  
Principal Parks and Wildlife Officer  
Ministry of Natural Resources, Lilongwe
- 36. Mr. S.A Mapila  
Deputy Director of Fisheries, Lilongwe

37. Mr. Felix Tukula  
Senior Planning Officer  
Ministry of Physical Planning, Lilongwe
38. Hon. R.W. Katenga Kaunda, Blantyre
39. Mr. S.P Mitini Nkhoma  
Head of Horticulture & Research Services, Blantyre
40. Mrs. L. Mibowa  
Gender Issues Officer, CURE, Blantyre
41. Mr. Charles Malata  
Director of Quality Assurance Service  
Malawi Bureau of Standards, Blantyre
42. Mr. NJ Mulenga  
Controller of Land resources and Conservation  
Ministry of Agriculture and Development, Lilongwe
- F. JUDGES AND MAGISTRATES WHO ATTENDED SEMINAR ON ENVIRONMENTAL INTERVENTION IN KENYA
43. Hon. Justice I.G Matmebo
44. Mr. P.R Mzikamanda, Lilongwe
45. Mr. R. Chimangwa, Lilongwe
- G. CONSULTANTS
- I Environmental Management Act Finalization
46. Mr. J. G Tomoka, Blantyre
47. Mr. G.Z Banda, Blantyre
48. Mr. S.T.D Matenje  
Solicitor General  
Ministry of Justice, Lilongwe
49. Mr. E.M Makewa  
MOREA, Lilongwe
- II. Sectoral Legislation Reform
50. Mr. G.Z. Banda, Blantyre
- H ENVIRONMENTAL IMPACT ASSESSMENT
51. Mrs. E.R M'Mangisa  
MOREA, Lilongwe

## I. UNDP

52. Programme Officer (Environment), Lilongwe

## LIST OF PERSONS INTERVIEWED IN UGANDA

## A. PROJECT COORDINATORS .

53. Prof. Okedi  
Executive Director, NEMA54. Dr. H. Aryamania Mugisha  
Deputy Executive Director, NEMA55. Mr. Robert Wabunoha  
NCC secretary and Project Coordinator, NEMA

## B. OTHER GOVERNMENT OFFICIALS

56. Dr. Ogaram  
Commissioner for Labor  
Ministry of Labor57. Mr. Okua  
Commissioner for Wildlife  
Uganda Wildlife Agency58. Mr. Olet  
Commissioner for Forestry  
Forestry Department59. Mr. E. Mulondo  
Environmental Liaison Unit  
Uganda National Bureau of Standards

## C. JUDGES AND MAGISTRATES WHO ATTENDED SEMINAR ON ENVIRONMENTAL INTERVENTION IN KENYA

60. Mr. Onega  
High Court Registrar

## D. PARTICIPANTS TO KISUMU SEMINAR ON METHODOLOGY FOR ENVIRONMENTAL STANDARDS

61. Mr. Robert Ojok  
NEMA

## E. PARTICIPANT TO TRAINING BY ATTACHMENT

62. Mr. Robert Wabunoha  
NCC secretary and Project Coordinator, NEMA

## D. CONSULTANTS

63. Ms. Jane Anywar

64. Mr. E. Kasimbazi

65. Mr. John Ntambriweki

66. Eng. Enoch Dribidu

## E. UNDP

67. Resident Representative  
Uganda UNDP CO

68. Joseph Opio-Odongo  
Sustainable Development Advisor  
Uganda UNDP CO

## Annex D Field visit reports

### A. FIELD TRIP REPORT TO MALAWI ( SUB-PROJECT COUNTRY)

#### 1. Introduction

The consultant arrived at Lilongwe, Malawi, on Sunday the 4th of May, 1996. He was received by a person from MOREA.

The next day, Monday the 5th of May , 1997, he was taken to the MOREA where he met with Mr. E.M Makewa, Principal Legal Officer.

The first part of the morning was spent discussing how to start the interviews since prior appointments were not made. Some appointments were made immediately by phone and it was decided to try and meet the other persons by going to their offices and trying to find out if they can accommodate the interviews. Except in a few case this worked fine. It was also agreed that the consultant should visit Blantyre. The trip to that city was made on Tuesday at about 4 o'clock and arrival was at about eight o'clock. The next day on the 7th of May 1997 the interviews in Blantyre commenced. The whole day was spent in that exercise. The next day, 8th of may 1997 departure for Lilongwe was made. Arrival was at 11 o'clock in the morning. The rest of the morning and the afternoon was spent with another series of interviews with persons who were not who had not been available for interviews on the 6th and 7th of May 1997.

The interviews were made with a cross section of people who were considered important to get the information required for the review. It included the Coordinators of the Malawi NSC and NLTF, other members of the NLNLTF, Participants who attended the training by attachment, participants to the Kisumu Seminar on Methodology for Environmental Standards, persons who attended the consensus building workshop on Sectoral Legislation in Zomba, the judges who attended the seminar on Environmental intervention held in Kenya, the national consultants who have been doing the revision of the EMA and review of the sectoral legislation as well as UNDP /CO Malawi.

#### 2. Results of the Interviews <sup>1</sup>

The following are the results.

##### 2.1 Government of Malawi Interest in and Commitment to the Project

The government of Malawi believes that the project activities and outputs are of great importance to the country and confirmed their commitment to see it to the end the project activities. They consider the project activities as timely. Especially the legal aspects. The finalization of the EMA and its enactment is considered as one major step ahead. They believe sectoral legislation is the next step. To carry out these next step activities they the support of the projects considered indispensable. They value not only the financial but also the technical aspects of the assistance. They were impressed because the technical assistance were made only when they thought they needed them and requested for them which is in line with their wish that the project be country driven. The officials at MOREA consider it as one of their most successful project.

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<sup>1</sup> The results of the interviews in this report are organized according to their grouping indicated under the sub paragraphs.

They also consider that, ultimately, the implementation aspects have to be looked at particularly the enforcement aspects of the new laws. They are worried that MOREA is short handed in terms of lawyers. MOREA has only one lawyer at present. They are also short of support staff such as secretaries.

Although there were initial delays at start up of their project due to the time it took to work out the operational modalities with UNDP the project is now going well and funds, which took as much as five months to receive, are being now disbursed by UNDP as requested. They consider that the option they have taken for country execution has been very good and is working very well.

They recognize that there were delays on their part also. They emphasized, however, that the delays are not due to lack of commitment or interest but to short handedness in human power.

They realize that their reporting about the project has not been consistent and did not follow any agreed format. They have been preparing reports in cooperation with UNDP /CO in Malawi and that office sent the report to UNDP NY.

## 2.2 The NSC

The NSC that has been established and which consists of MOREA, UNDP and FAO has been very useful. Without NSC it would have been very hard to move along implementation in a coordinated manner. The NSC helped them to know what each member is planning in terms of interventions to assist in project activities

Because of the NSC they have been able to know what elements are going on each agency. What the planned activities of each are. The NSC also has helped them to be timely. The problem at the moment is the Nature project which is a USAID balance of payments support to be used in Education, environment and agriculture. The money has been transferred by the USAID to the treasury of the Malawi government and there has been a problem of processing it for use. However, the processing is being finalized.

Relationship with UNDP has been good and quite open. Funds have been arriving on time for some time now.

## 2.3 The NLNLTf

The NLTF was established after a general meeting of all line ministries was called and discussions were carried out about what their involvement was in environmental matters. This was done by MOREA in 1995. A lot of gaps were found and duplications were revealed at that meeting. The NLTF was then established to solve these problems.

The criteria for selecting a task force member was that individuals who have functions which involve them with the initiation, development and enactment of legislation their respective institutions. There was expectation on the part of other ministries that MOREA will channel resources to the ministries through the NLTF structure to implement their legislative programmes.

To a great extent the NLTF is functioning. Its achievements have depended on the extent of outputs presented to it from the activities of the project. The NLTF activities have mostly concentrated in review of the sectoral legislation report and examining new drafts by other government agencies.

The NLTF has also selected and guided the consultants and as well as followed up to ensure that they met their deadlines. They also discussed and approved draft work plans prepared by the MOREA Legal Division.

The composition of the NLTF is inclusive. There were Nos, parastatals and representatives from the university. There were also traditional chiefs who have considerable authority over rural people. Regarding NGO participation the issue that more Nos involved in the implementation of environmental activities should have been

invited to the workshop was discussed and it was agreed that proposal will be considered in workshops to follow. One of the NOS which participated was an umbrella organization for environmental NOS which was not actually involved in the implementation aspects.

Initially The NLTF was slow in starting up. Its activities started picking up during the deliberations on the framework legislation. The initial activities were the review of the draft EMA and then the consensus building work shop. Communication at that time was good.

It was considered that the framework legislation should be in place before the sectoral aspects began being dealt with. This has delayed activities until 1996. It was also believed that the people who had training by attachment had to return to help them in the task with their newly acquired knowledge. Mr. Makewa who is the secretary of the NLTF had been sent for the training by attachment. After that meetings were constant and sometimes they even had to work week ends.

The EMA is helping the continuous functioning of the NLTF because it is used as a guide by the NLTF. NLTF members consider their role as giving guidance to the process of harmonizing and identification of gaps.

The achievements of the NLTF to date include the constituting of the NLTF; the two workshops ie-framework and sectoral review workshop.

The NLTF is considered important. It is felt that it will be necessary to keep it functional and make its views have the necessary weight. It should have legal status since EMA empowers the minister of MOREA to take the necessary measures for the implementation of EMA. It may be that the NLNLTf can be established under that authority giving it a sound legal status.

The process of having the project activities being led by the NLTF is considered as creating the ownership required. The member institutions are very interested in the project. The government is aware of what is going on. It was easy for MOREA to endorse the project because it is easily integrated to the NEAP process.

In addition what the NLTF members learn at NLTF meetings is considered important both as information and knowledge. It has become easier to implement agreements made at the NLTF meetings because they are consensus agreements.

The NLTF is supposed to meet four times in a year and it has tried to maintain this regularity. Attendance was not so much of a problem although individual members miss meetings sometimes. Sometimes invitations are not sent on time. A number of NLNLTfs interviewed are relatively new replacing former members who have stopped attending for one reason or another. In addition, turn over in the individual members is high.

This has not helped very much continuity in individual terms. However, institutional representation was maintained. One or two NLTF members even admitted that they were not active members. One member said that he does not remember what the TOR of the NLTF was since it was time since it was given to him.

Initially NLTF members were enthusiastic because there will be incentives. Among a few of the NLTF members, there is a feeling that what they are being paid per sitting ie- 200 K. is not up to the standard they were initially promised. They felt that the standard payment should be 300 K. They blame UNDP for this.

A few members of interviewed NLTF members did not seem to be well informed regarding the activities that the NLTF has planned for itself in implementing project activities. For example one of the interviewee said there is no more reason for the existence of the task force since it has completed its coordination role as regards environmental legislation. When told that there are future activities the person said that in that case the NLTF should continue. Some members felt that there were times funds from UNDP were not coming when needed.

### 3. Capacity Building

#### 3.1 Training by Attachment

The training by attachment was considered by the participants very useful. Only one of them appears to have had the opportunity to use what he has gained from the training in his job. The other did not have this opportunity so far although the possibility to use it in the future is there. The need for a certificate was mentioned.

#### 3.2 Workshop on the Sectoral Legislation Review Report

The review of the sectoral legislation was well taken. The kind of workshop that the review workshop has been is considered as having been long overdue. The workshop was multi-sectoral involving NOS, private sector, chiefs etc. That approach brought a lot of experience and was very participatory. Participants worked in work groups based on their field of interest and experience and that was presented to a plenary which discussed the outputs from the work groups.

Thus, the participants were convinced that ownership was strengthened. (Feb. 19-22, 1997) Those who have stakes in the process were all presenting their views. The workshop is also considered as having brought in to focus the major problems of the rural people. The chiefs were very concerned for the lack of conservation. Also in the rural areas structures for environmental management were lacking for controlling illegal activities and violators were at liberty to continue damaging the natural resources. Because of this concern the role of local authorities was strengthened in the EMA.

MOREA is gaining respect because of its coordination and participatory efforts including such workshops. MOREA used to be accused of not having enough teeth.

The workshop has made possible identification of gaps and the consultant's report has been good in this respect. The workshop has also been good as a forum. It is viewed highly by important people in government such as the political advisor to the president.

The consultant's report, however, was considered as having some drawbacks because it did not have in-depth analysis of some of the issues. There was also a feeling that the consultant has not consulted as many people as would be appropriate. The meeting also felt that the consultant has not covered certain issues such as land management and distribution, solid waste and air and water pollution. The land related issues have come out particularly strongly at the workshop. It was felt that the consultant did not go into sufficient detail even after a backstopping mission was made. However, the backstopping mission was still considered very helpful. These shortcomings are expected to be compensated by workshops that will be undertaken with respect to each newly revised sectoral legislation.

At the time of the workshop the draft fishery act was being reviewed and the discussions in the workshop have provided useful ideas in the revision of the draft fishery act. The fishery draft act prepared by FAO in the 1970s has become outdated with the coming in to force of the NEAP and EMA. In addition, there is now a draft fishery policy which is also being used to review the fishery act.

As a result of the workshop the Malawi wildlife sector under the Ministry of Natural Resources also became aware that the existing National Parks and Wildlife legislation is outdated. The EMA is also guiding thinking in this regard. Concepts such as buffer zones, the need for strengthening the requirements for export of trophies as well as how to treat wildlife on private land were not very well considered in the existing legislation. Similarly the concepts of participation, joint management and community management do not exist in the existing law. Thus, the workshop has, in general, given the wildlife sector an opportunity to think about the existing legislation.



Policy on wildlife has just been drafted. The need for a wildlife policy before embarking on legislation is appreciated. The draft wildlife policy maybe approved by the end of this year. A workshop to discuss the draft wildlife policy is expected to be held next month. The whole process is expected to be funded by Nature project (USAID). As a result of the work shop the land use and management law is also gong to be reviewed. There is already a draft land use and management policy.

There is a felt need to sensitize the grass roots community about these new laws. It is considered that, at the government level, there is sufficient ownership and participation of the different government agencies. However, there has been no effort at awareness creation and sensitization in the communities at the grass roots level so far.

It is felt that if MOREA can make contact with DDCs and work with them to sensitize the grass roots by providing them with simplified versions of the contents of the new legislation the situation will improve vary much.

The proceedings and recommendations of the workshop are currently being prepared. The report will be completed and submitted in the next two weeks. They have been delayed because at some point the status of the USAID Nature programme has been uncertain. Now things have been clarified the report of the review work shop is being finalized. The overall environmental law programme in Malawi is considered large.

The issue of EIA has been raised at the Sectoral legislation review workshop in relation with the discussion of the EMA. Information was given that the administrative guidelines have been prepared and submitted to the council and that technical guidelines are yet to be prepared. A review of the EIA administrative guidelines was made in a workshop. The materials for this workshop were prepared by local and international consultants. While the international consultant was paid by the WB the local consultants were paid by UNDP .

### 3.3 Seminar on Judicial Intervention in Environmental Issues

I am more on the administrative side. The environmental court cases arise usually in the areas where there parks or other protected areas. At the High court level not much application of environmental law. Loci Standi type of litigation is not in evidence yet but the potential for the future is there. There is as yet no awareness about loci standi (Lingazi river Pollution)

One of the seminar participant magistrate goes to the courts where there are environmental related cases every 15 days and discusses with them about environmental concerns. He has tried to make them aware of the damage done by poachers and the need to decide cases conscious of the environment. He believes sentencing must be done critically.

The participants believe that it is possible for them to undertake workshops to sensitize other judges and magistrates. In fact one of the senior high court judge who was participant has recommended to the chief justice that such work shops be undertaken.

### 3.4 Workshop on Standards

The standards training was rated useful and good. Although it was only a one week training it was considered adequate. Harmonizing the methodology was important. Malawi does not currently have standards. In MOREA the Environment Management and Monitoring Division is now responsible for standards. Before that the responsibility for standards was with the legal division.

Metrology Department is also supposed to monitor pollution. However their equipment is not working. They take rainfall samples to ascertain concentration levels of various pollutants in the atmosphere.. MOREA has established a committee for working on standards.

The training was useful for the participating individuals because they are involved directly and indirectly in issues that concern standards. For example the Meteorology Department participates in monitoring pollution while the Bureau of standards feel that they are best equipped to prepare standards for Malawi. They consider that the techniques that they have learnt at the training seminar very important. It was felt that the workshop could have provided more materials which will help them in follow up activities.

After the trainees returned from the training things did start moving. There were several meetings organized by MOREA. In this meetings work plans and budgets were prepared to be presented to UNEP/UNDP so that activities towards standards preparation will continue. Three areas were identified to be covered. Air, industrial emission limits, work place specification, water pollution and soil. However funds for the activities and the purchase of equipment were not made available. After that meeting stopped. The participants at these meetings were the Meteorology Department, the Ministry of Health, Labor and Manpower, Water, Transport, Bureau of Standards, the Chemical and Pesticides commission and the Blantyre Water Board. The lead agency, which is the Bureau of Standards was supposed to lead the committee to come up with a temporary adapted draft standard until a proper one was prepared. It was felt that the Bureau had the necessary infrastructure for developing standards. The training was too short.

The trainees considered it possible to impart knowledge gained to other people.

#### 4. Consultants

Two out of the three consultants involved in the revision of the EMA were interviewed. One of the consultants represented the Law Society of Malawi at the EMA consensus building workshop. The other colleagues the draft EMA taking into account the comments and recommendations made by the workshop participants. They prepared the final act. They knew that there were sectoral laws for environmental management in the country. However, what was different during their consultancy was that they were exposed to the holistic and integrated concept of environmental framework legislation.

They have gained the ability to link the various aspects of the environment. Several ministries during the consensus building workshop were afraid that MOREA was going to take over their responsibilities. By the end of the consensus building workshop they were convinced of the need for coordinating measures of environmental management through legislation and that the essentially their line activities will not be taken away from them. One of the important prerequisites that the workshop recognized was the indispensability of participation at the community level for the success of environmental management and the inculcation of the fact that the environment is theirs and not somebody else's. The work shop led to changes which clarified the role of MOREA as a coordinating ministry. The *loci standi* provision with which the workshop agreed was very broad in the sense it was designed to allow any person to sue environmental offenders. Parliament narrowed it by restricting it to those persons who have grounds to believe that they have suffered injury as result of the act of the offender.

The consultant who has produced a report on the of the review of sectoral legislation considered the backstopping mission to assist him in his work as useful since he was not a specialist in environmental law. The availability of some materials by UNDP to help the consultant carry out his duties were appreciated.

The consultants consider that they can be able to undertake similar tasks henceforth since they have gained the skills required. One of the consultants has taken an initiative to have environment on the agenda of the Law Society of Malawi. It was confirmed by the consultant who has carried out the review of sectoral legislation that he has received a report which includes the recommendations made at the consensus building workshop for sectoral legislation about a week ago and that he will finalize his revision in a week or so.

Another consultant expressed the view that political consensus regarding the environment and consistent support will be important both now and during enforcement of the laws. Political parties should not be tempted by the political advantages they think they will gain by playing loose with the requirements of the laws.

## 5. Malawi UNDP /CO

The country driven nature of the project and the involvement of nationals is a good way of ensuring that issues are looked at from the inside. The process has managed to create the desired ownership and impart skills. The fact that the fisheries draft legislation has been withdrawn after being submitted for enactment is considered a sign of the awareness and knowledge created through the project process. The project has also created the possibility of other donors getting involved because they are pleased with what has been achieved.

The project has also been important in the creation of partnership within the UN family as well as between local stakeholders. The communication with UNDP /CO in Malawi and the project office at UNEP are considered good. More effort at communications may be necessary on the side of MOREA. Project activities are consistent with and integrated with Capacity 21 programme in Malawi.

## FIELD TRIP REPORT TO UGANDA ( SUB-REGIONAL PROJECT COUNTRY)

### 1. Introduction

The consultant arrived at Entebbe, Uganda, on Friday the 9th of May, 1996 at 9.00 am. He was received by a person from NEMA who then drove him to Kampala where the headquarters of the NEMA is located. At the headquarters he was received by the project coordinator with whom the programme for the consultant was discussed and finalized. In the afternoon the interviews and discussions commenced and continued on Saturday morning. Saturday afternoon and Sunday offices were closed. On Monday the 12th of May 1997 and the first half of Tuesday the 13th were spent interviewing additional people.

The interviews in Uganda were arranged with the Permanent Secretary of the Ministry of Natural Resources, officials of NEMA, other government agency staff such as the wildlife and forestry departments, participants in training seminars and workshops as well as the Uganda UNDP /CO SDA. He also interviewed the consultants who are currently involved in the drafting of laws and implementing regulations for the six areas identified by the sub-project countries as priority.

### 2. Results of the Interviews <sup>2</sup>

The following are the results.

#### 2.1 Government of Uganda Interest in and Commitment to the Project

NEMA officials expressed, on behalf of the Ugandan government, the great importance of the project to their country. They made it clear that they were convinced of the need for sub-regional harmonization even before the project started. This conviction resulted from NEAP process which they have gone through and which brought to their attention that some of the environmental management issues in their country were of a transboundary or sub-regional nature. Among such issues were the management of lake Victoria particularly as regards water quality and fisheries and the harmonization of policies and laws with their other two neighbors.

Thus, the project serves the interest of the three countries at national and sub-regional levels. They consider the project as something which should have started earlier in terms of implementation. They believe it was delayed due to bureaucratic complications among which they point out the inability of the UNDP to send funds on time.

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<sup>2</sup> The results of the interviews in this report are organized under the sub paragraphs. according to their grouping indicated

They emphasize the appropriateness of the country and sub-region driven nature of the project for which they have negotiated for during project inception. They believe the technical know how exists in the sub-region and that international expertise should be minimized.

They are also convinced that the both at the country level and at the sub-regional level there is political support and commitment. At the country level the support comes from the highest level of government since the president of the republic gives high regard to environmental issues.

From the sub-regional perspective the ongoing initiative by the East African countries to become more integrated is also considered as a condition which is favorable to the kind of sub-regional project that this project is. In this context the LVMP is considered as a real sub-regional project. It goes along very well with the decisions of the Tripartite Commission for East Africa which has identified the lake Victoria area for economic development and also realizes the need for environmental management in the area where 40% of the people in the three countries live.

The LVMP has commenced just in March and will last for five years with a possibility of being renewed for another five years. The programme has not given adequate attention to institutional framework and legal regime required to continue the cooperation after the project phases out. In other words the project does not have an exit strategy. The activities commenced under the joint project are seen as filling this gap. That programme has identified water quality, land use and fisheries as well as control of water hyacinth as requiring sub-regional cooperation.

Discussions about the project started in 1994 when a mission was sent to visit the three countries with a concept paper. After agreement in principle has been reached with the three countries a sub-regional meeting took place where areas for cooperation were identified. Then there was a gap until a second meeting when the initial areas had to be narrowed to six priority areas because they were considered over ambitious. The project has taken a long time to take off. There were bureaucratic problems at UNDP /CO Uganda, UNDP /CO Nairobi and UNDP /NY levels.

It took about a year to approve the CVs of consultants and to authorize funds by UNOPS. The funds which were initially authorized by UNOPS were not sufficient to carry out the activities envisaged in the plan. This has caused a lot of ups and downs. UNOPS has authorized funds on the basis of the UNDP /UNOPS agreement has different specified a lower budget than the budget agreed upon in the PSC meeting. There was an apparent gap in information and communication. Thus, the project did not start being implemented until March 1997.

A six months plan was prepared. According to this plan implementation of activities was to start in December 1996. This plan could not be made practical since the funds were still not available.

Getting the funds has been very difficult. It was not until after some of the work has commenced that the funds arrived. UNDP /CO was not aware that the fund which was approved in by UNOPS in February 1997 was in their account. Work plans have kept being overtaken by lack of funds. According to the six month plan Uganda should have completed the envisaged activities by end of May.

So far the benefits gained from the project include training by attachment, harmonization of standards work shop, judicial intervention workshop and procurement of computer equipment. Currently ongoing but not completed benefits the review and drafting of legislation and implementation regulations in the areas of wildlife, forestry, waste & hazardous waste, EIA, environment quality standards, legal regime for the management of lake Victoria.

## 2.2 The NCC

So far the NCC has only met once which was during its inauguration. At that first meeting the NCC has agreed

to hold its meetings once every month. It has not met since. One reason given for not having a meeting of the NCC is that since the money for their sitting was not available the members could not be invited to a meeting. Before the NCC was created there were a few preparatory meetings for consultation. It was only after that the inaugural meeting took place in August 1995. The present project coordinator is serves as the secretary to NCC and the Ugandan focal point for the sub-regional project. The membership of the NCC consists of diverse government organizations and one representative from the faculty of law of Makerere University.

At that first meeting the NCC has made a number of important recommendations regarding the need to prioritize issues to be dealt with under the project, the selection of consultants, the need to avoid overlaps, the need for Uganda not to be bogged down because of the slowness of other countries, the need to make the preparation of environmental laws participatory and the importance of using nationals as consultants to enable capacity building and continuity.

### 2.3 The Sub-regional Team of Experts

In kind sight, the sub-regional team of experts which is supposed to be a body dealing with technical issues, is considered not carefully thought out from Uganda's point of view.

The institutional arrangements in Uganda are such that they have lead agencies which are normally mandated in the areas identified for sub-regional harmonization. As a result each such lead agency would want to send its experts to the meeting of the team of experts. Thus, a problem of representation at the team of experts meeting arises. In addition, the consultants are also supposed to be members of this team and yet how to retain them after they complete their contractual obligations is not clarified.

Although Uganda is considered the focal point for the EA sub-regional project there is no clarity about the focal point role that it is supposed to play.

It is considered that the NEAP process has helped Ugandans who have gone through it to gain capacity and familiarity with the issues. It has created broad awareness which, nevertheless, needs to continue building on what has been done in this area so far.

As a result of the NEAP process, it is felt that Uganda is more advanced in the process overall than its two neighbors. The fact that the other countries are not moving fast enough is considered as a constraint. There is concern that the three countries are being considered not as separate sovereign countries but as one entity.

That the other countries are proceeding with harmonizing legislation in the area of the six issues identified for cooperation and harmonization without having in place a framework legislation is considered inappropriate.

The problem in Tanzania is seen as a potential obstacle in project implementation unless it is solved. Besides the unresolved institutional issue, there is also a high turn over of personnel who could be coordinating this project in Tanzania. The present coordinator is new. Tanzania has now collected a team of consultants to carry out the activities.

The programme in Uganda is nationally executed.

There is no formal reporting requirement.

### 2.4 Capacity Building

#### 2.4.1 Training by Attachment

The training by attachment was considered by the participants very important in terms of getting information, relevant materials and making contacts. What insight and information is gained has been of useful application.

#### 2.4.2 Seminar on Judicial Intervention in Environmental Issues

The seminar on Judicial Intervention is considered quite productive by the judges and magistrates who participated. They think it should have been for a week instead of for four days so that they could have time to digest the issues in more detail. Otherwise they confirm that the organization of the seminar was excellent.

They now realize the extent to which human action can harm the environment and subsequently endanger the very survival of the human species. They admit that their previous environmental laws were quite outdated and ineffective, particularly as regards penalties which are not of sufficient deterrence value. They regret that as judges, magistrates and citizens they have not been able as much as they should have done because of lack of awareness.

After they returned from the seminar they have agreed among themselves to be, in the future, more emphatic about environmental offenses and not hide behind procedural matters. The cases that have been presented to them at the work shop has made them realize that they can take more bolder steps to protect the environment and that the framework legislation that they now have in place will eventually be helpful to them as people start to exercise *locus standi* right. At the moment there is no sufficient awareness about this right among the public including the judges and magistrates who did not have the good fortune to be exposed to a similar seminar.

Regarding the framework legislation they expressed regret that judges have not been invited to the consensus building workshop because they would have had the opportunity to express their concern about the possibility of a prolonged process in the administration of the law which requires a series of administrative measures before a case come to the courts. They feel that the framework legislation gives too much power to the NEMA.

#### 2.4.5 Workshop on Standards

The standards workshop was useful both for gaining additional skills as well as exchange of ideas between the participating countries. They realized they did not have harmonized standards and the need for harmonization became evident particularly in the context of the need to manage Lake Victoria jointly as a shared resource. The fact that countries are taking measures of cooperation has also contributed to the need for harmonization.

However the work shop enlightened them on the approach to the development of standards particularly the need for adequate and appropriate data and the need to make the preparation process participatory.

#### 2.5. Consultants

The consultants are in the process of reviewing and drafting. It has taken them a long time to start. They have submitted their CVs and forgotten all about it. Then the contract was signed in beginning of March 1997. They were recruited after NEMA identified them in its data bank for specialists. Those identified were requested to submit their CVs which were sent to UNEP. The number of specialists in the area of environmental law is very limited. A small number of NSC members have been involved in commenting on the draft TORs proposed by NEMA for the consultants.

The consultants do try to consult with relevant sector agencies or line ministries. This kind of consultation has been limited to Kampala. They find the consultation process time taking because of the difficulties involved in getting people to talk to them. NEMA has been helpful in this regard. Some of the consultants are monitoring other draft laws in order to ensure that they include appropriate provisions for the areas they are undertaking

drafting.

There is a feeling that there has not been adequate linkage between the consultants for purposes of coordination such as working out joint time tables indicating periods for accomplishing certain parts of their task at given times. Exchange of each other's drafts would have been useful also.

There are no dead lines for accomplishing tasks under the contract at present. The contract was signed two weeks before the deadline for accomplishing the tasks. Actual commencement was supposed to be in January.

Currently, with project assistance:-

Two drafts- ie hazardous waste & other waste as well as EIA have been produced by consultants.

Forestry legislation review has been completed and consultants have, on their own initiative, started drafting exercises in this area based on an outline of the areas that need to be developed.

The wildlife act of 1996 currently in operation is being reviewed to ascertain whether the principles of international agreements and treaties to which Uganda is a party and which are relevant to wildlife management ( eg- CITES) are included. Any short comings are going to be corrected through regulations which will be drafted.

The review of the institutional arrangements and legal regime for lake Victoria is almost completed.

The preparation of soil standards is underway

In addition standards for occupational/ambient air quality, water quality/effluent standards and occupational/ambient standards for noise have been prepared under separate arrangement. These initiatives have been already started before the work shop as per the requirements of the NEAp which has already identified priority areas for standards.

Two work shops on hazardous waste and EIA are planned towards the end of May. Similar consensus building workshops where the other reviews and drafts will be discussed are envisaged but not yet scheduled.

As regards hazardous and EIA reviews have been done earlier under the NEAP process in 1994. There is no need for detailed review at this stage. The drafting pertains to implementation regulations following the framework legislation. Draft regulations for both areas are completed. Work shop is scheduled for 22nd and 29th of May respectively.

In addition to the above the preparation of soil standards is underway through assistance by the project, which has funded consultants for this purpose. The consultants are of the opinion that the six weeks, which has been given to them as dead line is too short.

The process of developing the standards and having them discussed and reviewed goes through the following structure:-

- experts working groups or consultants on each identified area are established or contracted to draft the required standards which are submitted to NEMA;
- NEMA submits the drafts to a technical committee for appropriate comments based on which a revised draft is prepared and submitted to NEMA;
- the revised draft is then submitted to a workshop attended by stakeholders from government,

Nos and the private sector particularly industry comments and input;

The four participants have contributed to the process of preparation of standards.

In the process of preparing the standards it was realized there were gaps of information. Gaps in data regarding soil has been particularly lacking although a few areas are well covered. The last soil map was prepared in Uganda was prepared in 1964. Besides being too old this map does not cover the country wholly.

The preparation of standards for soil differs from the others in one respect. It is being prepared by consultants. The consultants believe that the time is too short and that an extension is required

Uganda has the expertise required to collect data and prepare standards. What it lacks is equipment.

#### 2.6. Uganda UNDP /CO

The project has a strong innovative approach. The region is suitable for this approach because of the common heritage the countries have in terms of legal systems, institutions similarities etc. The process of getting back in to the East Africa community has also been an important factor. These factors have created an environment in which interagency cooperation as well as the feasibility of harmonization of environmental laws and standards can be attempted. However, during project design enough attention has not been given to operational modalities. Examples are differences in policies between UNEP and UNDP as regards payments to consultants and the provision of incentives. Uganda had a unified system of incentives scheme. then the government changed it when it felt that it was able to give living wages. UN agencies and other donors were advised of this change and as a result it has not been possible to pay top ups to the project coordinator.

Another operational modality problem is the sub regional projects funds are still authorized by UNOPS since national execution has not been possible in the context of the sub-regional project. It was only in November 95 the project budget was known to the concerned UNDP /COs.

Reports are made by UNDP /CO in Kampala to the Nairobi UNDP /CO which in turn sends the report to UNOPS with a copy to UNEP. This reports are made as each activity under the six months work plan is accomplished following a format required by UNOPS.

There is still a communication gap. The only document that the UNDP /CO in Kampala has is the project agreements between UNDP and UNOPS. It appears that the relevant UNDP /COS have not been sensitized about the details of the modalities for collaboration and what is expected from each agency although they knew generally why the collaboration is taking place.

Capacity 21 in Uganda is not yet in place. The identification of capacity gaps has recently been completed on the basis of which a programme is yet to be built.

NEMA is over stretched. The project coordinator is trying to perform single handedly as the only lawyer.



**Annex E: TOR for the consultant**

**UNEP/UNDP JOINT PROJECT ON ENVIRONMENTAL  
LAW AND INSTITUTIONS IN AFRICA:**

**AN INTERNAL REVIEW**

**APRIL/MAY 1997**

**TERMS OF REFERENCE**

This internal review shall be conducted by one consultant experienced in the field of environmental law and policy and with intimate knowledge of environmental legislation and administration in Africa.

The consultant shall, under the general direction and supervision of the Director of ELI/PAC and in consultation with the Resident Representative of UNDP in Nairobi, carry out the following:

1. Appraise the implementation of the Joint Project since 1994 in relation to the objectives specified in the original project document and the decisions of the Steering Committee, and make recommendations thereto.
2. Examine documents and reports, conduct interviews, as appropriate, to ascertain the extent to which the development of environmental laws and the enhancement of expertise have been achieved.
3. Examine the records and consult with the donor and the members of the Steering Committee, give a brief evaluation of the efficiency of programme, financial arrangements and reporting.
4. Make visits to two project countries (Malawi and Uganda) and conduct interviews with the officials of UNDP/CO and the governments as well as the government officers who have been involved in the activities under the project, to ascertain benefits of the project to the country and how the performance can be improved, including the budgetary, personnel and programme matters.
5. Use reports of meetings, correspondence and interviews to ascertain the extent to which the collaboration between UNEP and UNDP as well as among members of the Steering Committee in the supervision of the project has been affective.
7. Prepare and submit a report to the Director of ELI/PAC *and* to make a debriefing presentation at the Sixth Meeting of the Steering Committee on May 26, 1997, and incorporate their recommendation into the final report. The content of the report should at least present the following parts:
  - (a) Summary

- (b) A description of the project
  - (c) Scope of the review and method used.
  - (d) The detailed assessment
  - (e) Lessons learned
  - (f) Conclusions
  - (7) Recommendations
8. This task shall be performed from 22nd April to 31 May 1997, which is 40 days.

Note: Additional briefing is in the concept paper prepared for this review and which is annexed to these Terms of Reference for detailed guidance.

## Annex F Questionnaire

### UNEP/UNDP JOINT PROJECT ON ENVIRONMENTAL LAW AND INSTITUTIONS INTERNAL EVALUATION QUESTIONNAIRE FOR PARTICIPATING AGENCIES

#### Project Origin

What role did your agency play in the inception and preparation of the Project?

What other agencies played key roles? What were the roles?

What roles did representatives of beneficiary countries, play?

#### Project Objectives and Goals

What are the problems that the overall Project is trying to address?

What are the overall Project's goals and activities?

Who determined the problems, goals and objectives, and how were they decided?

How was the overall project developed and designed?

Have the countries selected to be beneficiaries been included in the development and design of the project?

How were the country specific and sub-regional project developed and designed?

What the level of the participation of the in the development, design and implementation of the project?

#### Project Management

Who manages the overall Project?

How are other cooperators in the Project involved in Project management?

What management problems were/are faced by the project? (include administrative, financial and reporting problems)

How are the country specific and sub-regional projects managed at country or sub-region level?

What management problems were/are faced by the these projects?

#### Funding

How large is the overall project budget?

How much funding does each county specific and sub-regional project need per year?

How much comes from the overall project fund and how much from beneficiary governments?

How satisfactory is the project financial management system?

How satisfactory is the project finances reporting system:-

-from beneficiary country projects to overall project management

-from overall project management to donor?

#### Project monitoring and Evaluation

How is the Project monitored and by whom?

Has monitoring and evaluation led to changes? If so how?

#### Adherence to Work Programs

Does the overall project have a work plan and programme? If not, why?

If yes, has the project been able to stick to the work programme? If not why not?

Have the country specific projects work specific work programs? If not, why not?

If yes, have they been able to stick to the their work programs? If not why not?

What are the activities completed to date ( as of April 1997) for the country that you are a lead agency for?

#### Project Accomplishments

Legislation: What types have been drafted? What types have been enacted?

What "other things" has the Project done and what is planned?

How far do those accomplishments go to meet the interests and expectations of the beneficiary countries?

Do you have your own interest and expectations from project accomplishments? To what extent have they so far been met and will be met in the future?

#### Collaboration

How important and effective has collaboration been among participating agencies? Between participating agencies and beneficiary country governments?

What roles did the agencies and/or governments play?

What were the major problems in the collaboration process?

#### Satisfaction

Are you satisfied with the Project and its progress? Why? Why not?

Do you think replicating the Project in other African countries/ sub-regions will be useful?

Could a higher level of satisfaction be gained? How?

#### Problem Resolution

What types of disagreements have there been on the Project and how have they been resolved if at all?

How much have such disputes affected project progress and the quality and quantity of project output?

Do you think there is a better way of resolving such disagreements?

#### Sustainability

What is the future of the project? Where is it going?

When should it end?

In what ways could this project be sustained? What would be needed?

Are incentives used to enhance the sustainability of the project? What are they? How are they used? If no incentives why not?

What approaches for motivating those involved in the project implementation do you envisage as useful?

#### Lessons learnt

From your experience what are the important lessons learnt?

Which of these is the one most important thing that you have learnt?

If a similar project was going to be initiated, what advice would you give? offer

What would be your best advise?