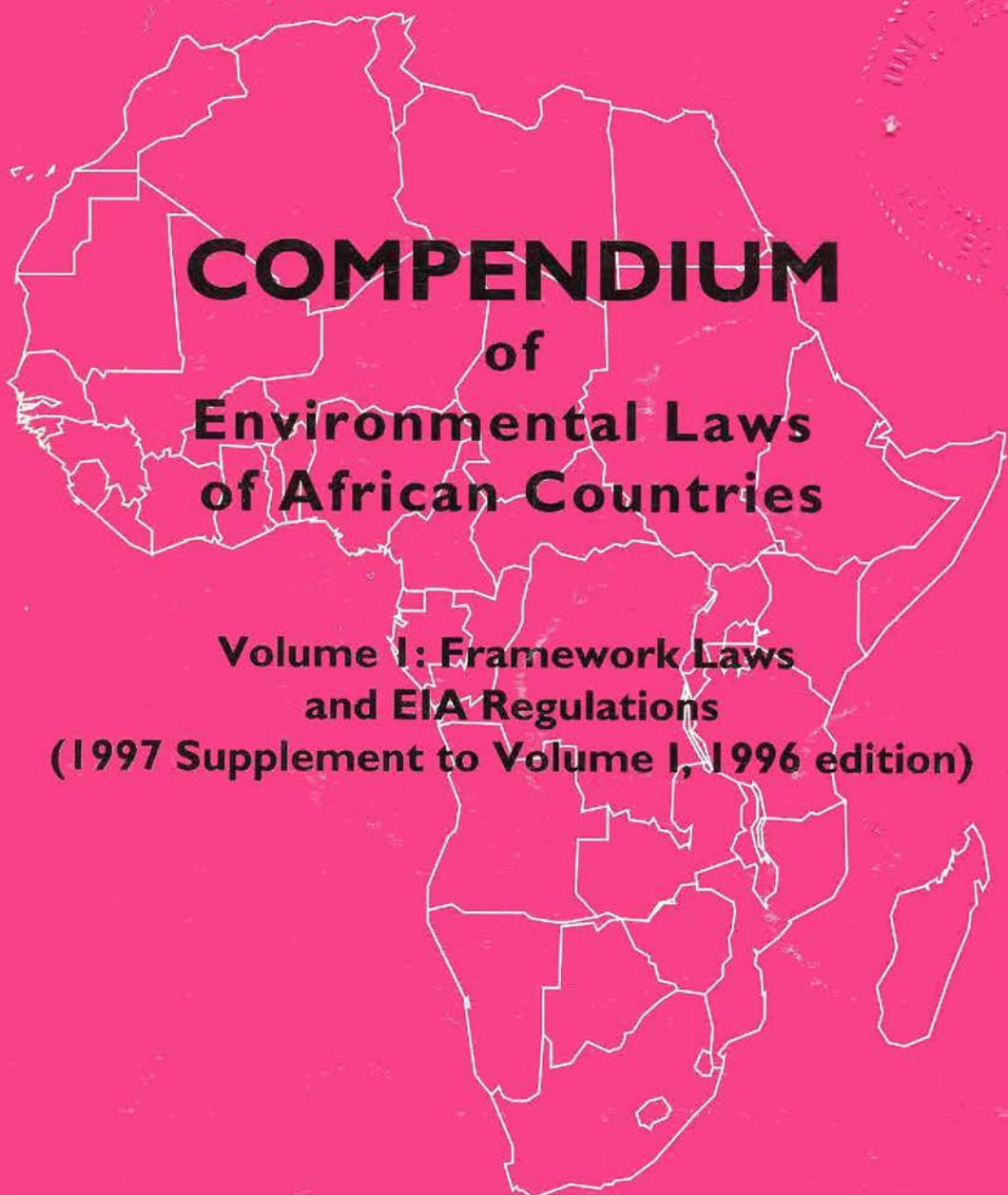




UNEP/UNDP Joint Project on Environmental Law and Institutions in Africa



December 1997

COMPENDIUM

of
**Environmental Laws
of African Countries**

**Volume I: Framework Laws
and EIA Regulations
(1997 Supplement to Volume I, 1996 edition)**



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



1997 Supplement to Volume I, 1996 edition

CONTENTS

CONTENTS	i
PREFACE	ii
INTRODUCTION	iii

PART I: *Framework Laws and Regulations*

CAMEROON	1
Law No.96/12 of 5 August 1996 Relating to Environmental Management	1
Loi no. 96/12 du 5 Août 1996 Portant Loi-cadre relatif à la gestion de l'Environnement	15
COTE D'IVOIRE	30
Loi-Cadre No. 96/766 du 3 Octobre 1996 Portant Code de l'Environnement	30
ERITREA	44
Environment Proclamation 1996	44
MOZAMBIQUE	70
Lei no/97 de 1997	70
NIGERIA	77
Federal Environmental Protection Agency Act, Cap 131, LFN, 1990 (as amended) by Decree No. 59 of 1992.	77
SOUTH AFRICA	90
Environment Conservation Act No. 73 of 1989 (as amended)	90
Environment Conservation Extension Act No. 100 of 1996	115
SWAZILAND	117
The Swaziland Environment Authority Act, 1992 (Act No. 15 of 1992)	117

PART II: *Environmental Impact Assessment Enactments*

MADAGASCAR	123
Décret portant refonte du décret no 92-926 du 21 Octobre 1992 relatif à la mise en compatibilité des investissements avec l'Environnement	123
NAMIBIA	135
Namibia's Environmental Assessment Policy Cabinet Resolution 16.8.94/002.	135

PART III: *Appendices (as revised)*

Appendix I: Index of Framework Laws and Regulations of African Countries	141
Appendix II: Index of Environmental Impact Assessment (EIA) Laws and Regulations of African Countries	183

PREFACE

The Compendium of Environmental Laws of African Countries was published for the first time in 1996. The four volumes which were released are in two categories: Volume I contains texts of framework laws as well as EIA Regulations, which had been received by that time. The other three volumes contained sectoral laws and implementing regulations.

Since then, additional texts of framework laws and implementing regulations have been submitted by some governments to the UNEP/UNDP Joint Project on Environmental Law and Institutions in Africa. This was clear evidence that they support the idea and are prepared to be part of it.

A quick decision was taken to continue the series of volumes of sectoral laws and implementing regulations. Therefore, Volume V and beyond will be released in 1998. And the series will continue thereafter. On the other hand, the framework laws received from 1997 and beyond will be released as Supplements to Volume I. The first such supplement includes texts from Cameroon, Cote d'Ivoire, Eritrea, Madagascar, Namibia, South Africa and Swaziland.

The management of UNEP/UNDP/Dutch Joint Project on Environmental Law and Institutions in Africa wishes to record deep gratitude to the African governments which have supported this initiative. The Compendium and its supplements will provide useful tools for analogies to those countries in the process of developing their laws. Besides, this is an important resource for policy makers, teachers and researchers in comparative environmental law.

For enquiries, please contact:

Task Manager
UNEP/UNDP/DUTCH Joint Project
UNEP Environmental Law Unit
United Nations Gigiri Complex
P.O. Box 30552
NAIROBI, KENYA
Phone: (254 2) 623923/3815
Fax: (254 2) 623859
E-mail: charles.okidi@unep.org

INTRODUCTION

The Compendium of Environmental Law of African Countries is prepared by the Environmental Law and Institutions Programme Activity Centre (ELI/PAC) under the auspices of the UNEP/UNDP Joint Project on Environmental Law and Institutions in Africa which is funded by the Dutch Government. The objective of the Joint Project is to mobilize the expertise and guidance of six different agencies in working with selected African countries towards the enhancement of their legal and institutional capabilities in the field of environmental law. The agencies involved in this exercise are UNEP, UNDP, FAO, The World Bank, and the IUCN, all of which constitute the Project's Steering Committee. The World Health Organization (WHO) which originally participated as an observer, has since withdrawn from the status due to exigencies of their situation.

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

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

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

Over the years, the Environmental Law and Institutions Programme Activity Centre (ELI/PAC) has collected several texts of national environmental laws from all over the world. African texts from that collection formed the core of materials for the compendium. In addition, all African countries were requested to supply up to date texts of their national environmental laws and the response has been highly impressive and very encouraging. In fact, enquiries are frequently being received from those who would like to receive the compendium. So the production of the compendium will proceed in order to fill that gap. Fresh requests will be sent out for more and updated texts in readiness for subsequent volumes.

In our opinion, consumers of the compendium may be in the following five categories: First, the project countries which prompted the initiative to publish the compendium will utilize the handy texts in their on-going work. Secondly, other African countries will find use for the collection for similar endeavours. The Environmental Law and Institutions Programme Activity Centre (ELI/PAC) is working with a number of countries, beside the Joint Project, in the development of environmental laws, and additional requests are in the pipeline. Thirdly, the texts will be used in the same countries for teaching and research in environmental law, which is an exercise in capacity building. It is a fact that those engaged in research and teaching in Africa invariably rely on legislative texts published from North America and Europe because texts from Africa are difficult to obtain. Fourthly, researchers and commentators from different jurisdictions will find an easy access to the texts from African countries and, therefore, facilitate comparative analysis and the evolution of the relevant doctrines on a global scale. The lack of access to the texts of African environmental laws has impeded this development. Fifthly, donor countries which, like the Dutch Government, may wish to work with countries in Africa or other continents, on the development of environmental laws, will find handy comparative materials. Similarly, partner agencies, which are all active in the development of environmental and natural resources laws in developing countries, should find the compendium to be a handy source of analogies.

PART ONE

Framework Laws

CAMEROON

Law No.96/12 of 5 August 1996 Relating to Environmental Management

The National Assembly has deliberated and adopted,

The President of the Republic enacts the Law set out below,

PART 1

GENERAL PROVISIONS

1. This law lays down the general legal framework for environmental management in Cameroon.

2. (1) The environment constitutes a national common heritage in the Republic of Cameroon. It is an integral part of the universal heritage.

(2) Its protection and the rational management of the resources it provides to human life are of general interest.

These resources concern mostly the geosphere, the hydrosphere, the atmosphere, their material and immaterial content, as well as the social and cultural aspects they comprise.

3. The President of the Republic shall define the national environmental policy. Its implementation shall devolve upon the Government which shall apply it, in collaboration with the decentralized territorial authorities, grassroots communities and environmental protection associations.

To this end, the Government shall formulate national strategies, plans or programmes for the conservation and sustainable use of environmental resources.

CHAPTER 1 DEFINITIONS

4. For the purpose of this law, and its enabling instruments, the following definitions shall apply:

(a) "air" shall be the elements comprising the atmospheric fluid and whose physical, chemical or any other modification may threaten living things in ecosystems and the environment in general;

(b) "environmental auditing" shall be the systematic, documented and objective appraisal of the situation of the management of the environment and its resources;

(c) "waste" shall be any residue from a production, processing or utilization process, any substance or material produced or, more generally, any movable and immovable goods abandoned or intended to be abandoned;

(d) "sustainable development" shall be a mode of development which aims at meeting the development needs of present generations without jeopardizing the capacities of future generations to meet theirs;

(e) "continental waters" shall be the hydrographic whole of surface and underground waters;

(f) "maritime waters" shall be the brackish waters and all sea waters under Cameroonian national jurisdiction;

(g) "ecology" shall be the study of relationships existing between the various living things and their surroundings;

(h) "the ecosystem" shall be the dynamic complex comprising the community of plants, animals, micro-

- organisms and their living environment which, through their interaction, make up a functional unit;
- (i) “effluent” shall be any processed or unprocessed liquid and gaseous evacuation of domestic, agricultural or industrial origin, discharged directly or indirectly into the environment;
- j) “waste disposal” shall be all the operations comprising the collection, transportation, storage, and processing necessary for the recuperation of useful materials or energy, and for their recycling, or any deposit or discharge of any other product in appropriate areas under conditions geared towards avoiding harmful substances and environmental degradation;
- k) “the environment” shall be all the natural or artificial elements and bio-geochemical balances they participate in, as well as the economic, social and cultural factors which are conducive to the existence, transformation and development of the environment, living organisms and human activities;
- l) “ecological balance” shall be the relatively stable relationship created progressively in time between man, the fauna and flora, as well as their interaction with the conditions of the natural environment in which they live;
- m) “classified establishments”, shall be establishments which are sources of danger or disaster threatening for the security, sanitation or the convenience of the neighbourhood or for public health, agriculture and for fishing;
- n) “human settlements” shall be all the urban and rural centres irrespective of their type and size, and all facilities they must contain to ensure a sound and decent existence for their inhabitants;
- o) “environmental impact assessment” shall be a systematic examination, with a view to determining if a project is environmentally harmful or not;
- p) “ecologically rational waste management” shall be any practical measures ensuring that waste is managed in such way as to protect human health and the environment, against the harmful effects this waste may have;
- q) “waste management” shall be the collection, transportation, recycling and elimination of waste, including the monitoring of disposal sites;
- r) “a plant” shall be any fixed or mobile device or unit likely to be environmentally harmful, irrespective of their owner or use;
- s) “nuisances” shall be all the technical or social factors which jeopardize the environment and make life unhealthy or difficult;
- t) “a pollutant” shall be any substance or solid, liquid or gaseous discharge, any waste, odour, heat, sound, vibration, radiation or a combination of these, likely to provoke pollution;
- u) “a polluter” shall be any private individual or corporate body emitting a pollutant which leads to an imbalance in the natural environment;
- v) “pollution” shall be any contamination or direct or indirect modification on the environment provoked by any act likely to:
- negatively affect a positive use of the environment by man;
 - threaten the health, security and well-being of man, the flora and fauna, air, the atmosphere, waters, soils, and collective and individual goods;
- w) “genetic resources” shall be animal or plant material of real or potential value.

CHAPTER II GENERAL OBLIGATIONS

5. The laws and regulations shall guarantee the right of everyone to a sound environment and ensure a harmonious balance within ecosystems and between the urban and rural zones.
- 6.1) Public and private institutions shall, within the context of their competence, sensitize all the populations on environmental problems.
- 2) The institutions shall consequently include programmes in their activities to provide better knowledge of the environment.
- 7.1) All persons shall have the right to be informed on the negative effects of harmful activities on man, health, and the environment, as well as on the measures taken to prevent or compensate for these effects.
- 2) A decree shall define the context and conditions for exercising this right.
- 8.1) Associations regularly declared or recognized as publicly useful and exercising their statutory activities in the field of environmental protection may only contribute to the actions of public and semi-public environmental institutions following an authorization

issued in keeping with the terms and conditions laid down by special instruments.

- 2) Authorized grassroots communities and associations contributing to all actions of public and semi-public institutions working for environmental protection may exercise the rights of the plaintiff with regard to facts constituting a breach to the provisions of this law and causing direct and indirect harm to the common good they are intended to defend.

concerned, or after a public debate when they are of a general nature;

- f) the principle of substitution according to which in the absence of a written general or specific rule of law on environmental protection, the identified customary norm of a given land, accepted as more efficient for environmental protection, shall apply.

CHAPTER III FUNDAMENTAL PRINCIPLES

9. Within the framework of the laws and regulations in force, rational environmental and natural resource management are based on the following principles:

- a) the principle of precaution, according to which lack of certainty, given the current scientific and technical knowledge, should not retard the adoption of effective and commensurate measures aimed at preventing a risk entailing serious and irreversible damages for the environment at an economically acceptable cost;
- b) the principle of preventive action and correction (through priority at the source) of threats to the environment by using the best available techniques at an economically acceptable cost;
- c) the pollute and pay principle according to which charges resulting from measures aimed at preventing, reducing and fighting against pollution and the rehabilitation of polluted areas shall be borne by the polluter;
- d) the principle of liability according to which any person who, through his actions, creates conditions likely to endanger human health and the environment shall eliminate or cause the said conditions to be eliminated in such a way as to avoid the said effects;
- e) the principle of participation according to which:
 - each citizen shall have access to information on the environment, including information on dangerous substances and activities;
 - each citizen shall have the obligation to safeguard the environment and contribute to its protection;
 - corporate bodies and private citizens shall, in all their activities conform to the same requirements;
 - decisions on the environment shall be taken after consultation with the sectors of activity or groups

PART II

PREPARATION, COORDINATION AND FINANCING OF ENVIRONMENTAL POLICIES

10. (1) The Government shall prepare environmental policies and coordinate their implementation. To this end, it shall:

- establish quality norms for air, water, soil and any other norms necessary to safeguard human health and the environment;
- establish links between pollution, the state of biodiversity conservation and the state of the environment in general;
- initiate research on the quality of the environment and related areas;
- prepare an amendment of the National Environmental Management Plan in keeping with the interval provided for in article 14 of this law, with a view to adapting it to the new demands in this field;
- initiate and coordinate actions warranted by a critical situation, an environmental state of emergency or any other situations that may constitute a serious threat to the environment;
- publish and disseminate information on environmental protection and management;
- take any other measures necessary for the application of this law.

(2) The government shall be assisted in its mission of formulating, coordinating, implementing and monitoring environmental policies by an Interministerial Committee on the Environment and a National Consultative Commission on the environment and Sustainable

Development whose duties, organization and functioning shall be laid down by the enabling decrees of this law.

11. (1) A special Fund, called the "National Environmental and Sustainable Development Fund" hereinafter referred to as the "Fund" is hereby set up with the following objectives:

- contribute to the financing of environmental auditing;
- provide backstopping for sustainable development projects;
- provide backstopping for environmental research and education;
- support programmes promoting clean technologies;
- encourage local initiatives on environmental protection and sustainable development;
- support legalized associations involved in environmental protection which carry out significant activities in this domain;
- backup the actions of ministries involved in environmental management.

(2) The organization and functioning of the Fund shall be laid down by a decree of the President of the Republic.

12. (1) The resources of the Fund shall come from:

- contributions from the State;
- contributions from international donors;
- voluntary contributions;
- proceeds from fines on compromises as provided for by this law;
- donations and legacies;
- sums recovered from the rehabilitation of polluted areas;
- any other revenue appropriated or authorized by law.

(2) These resources shall only be earmarked for purposes matching the objectives of this Fund.

PART III

ENVIRONMENTAL MANAGEMENT

CHAPTER I THE NATIONAL ENVIRONMENTAL MANAGEMENT PLAN

13. The Government shall draw up a National Environmental Management Plan. The Plan shall be amended every 5 (five) years.

14. (1) The Administration in charge of the environment shall ensure the inclusion of environmental concerns in all economic, energy, land and other plans and programmes.

(2) Furthermore, the said Administration shall ensure that the international commitments of Cameroon relating to the environment are introduced in national environmental laws, regulations and policies.

15. The Administration in charge of the environment shall plan and ensure the rational management of the environment, set up an environmental information system comprising a data base on the various aspects of the environment, at national and international levels.

To this end, it shall register all scientific and technological data relating to the environment and keep an updated compendium of environmental national laws and regulations and international legal instruments of which Cameroon is a party to.

16. (1) The Administration in charge of the environment shall draw up a bi-annual report on the state of the environment in Cameroon and table it before the Interministerial Committee on the Environment for approval;

(2) This report shall be published and widely disseminated.

CHAPTER II ENVIRONMENTAL IMPACT ASSESSMENT

17. (1) The promoter or owner of any development, labour, equipment or project which may endanger the environment owing to its dimension, nature or the impact of its activities on the natural environment shall carry out an impact assessment, pursuant to the prescription

of the specifications. This assessment shall determine the direct or indirect incidence of the said project on the ecological balance of the zone where the plant is located or any other region, the physical environment and quality of life of populations and the impact on the environment in general.

However, where the said project is undertaken on behalf of the national defence services, the Minister in charge of defence shall disseminate the impact assessment under conditions compatible with national defence secrets.

(2) The impact assessment shall be included in the file submitted for public investigation where such a procedure is provided for.

(3) The impact assessment shall be included in the file submitted for public investigation where such a procedure is provided for.

(4) The terms and conditions for applying the provisions of this article shall be laid down by an enabling decree of this law.

18. Any impact assessment that does not comply with the prescriptions of the specifications shall be null and void.

19. (1) The list of the various categories of operations whose implementation is subject to an impact assessment as well as the conditions under which the impact assessment is published shall be laid down by an enabling decree of this law.

(2) The impact assessment shall necessarily comprise the following indications:

- analysis of the initial state of the site and its environment;
- reasons for choosing the site;
- appraisal of the foreseeable consequences of the implementation of the project on the site and its natural and human environment;
- outline of the measures envisaged by the promoter or owner to eliminate, reduce and, if possible, compensate for the harmful consequences of the project on the environment and the estimates of ensuing expenses;
- presentation of other possible solutions and reasons for which the project was selected, from the point of view of environmental protection.

20. (1) Any impact assessment shall give rise to a reasoned decision by the competent Administration, after

approval by the Interministerial committee provided for by this law, under pain of the absolute nullity of the said decision.

The decision by the competent Administration shall be taken within a time-limit of 4 (four) months as from the date of notification of the impact assessment.

After this deadline, and in the event of silence from the said Administration, the promoter may begin his activities.

(2) Where the impact assessment is not known or the impact assessment procedure is totally or partially disrespected, the competent Administration, or if need be, the Administration in charge of the environment shall demand the implementation of appropriate emergency procedures to suspend the work envisaged or already initiated. These emergency procedures shall be initiated without prejudice to the sanctions provided for by this law.

CHAPTER III PROTECTION OF THE RECEPTOR ENVIRONMENT

SECTION 1 PROTECTION OF THE ATMOSPHERE

21. The following shall be prohibited:

- endangering the quality of air or provoking any form of modification of its characteristics thus possibly producing harmful effects on public health and property;
- discharging any pollutant into the air, especially smoke, toxic, corrosive or radioactive dust or gases beyond the limits laid down by the enabling instruments of this law, or by special instruments as the case may be;
- discharging odours which, by virtue of their concentration or nature, are particularly inconvenient for man.

22. (1) In order to avoid atmospheric pollution, buildings, agricultural, industrial, commercial and cottage industrial establishments, vehicles or other movable objects possessed, exploited or owned by any private individual or corporate body shall be constructed, exploited or used in a way as to meet the technical norms in force or established in application of this law or special instruments.

(2) Specially protected areas subject to particular

measures shall be erected where necessary by a decree at the proposal of the territorial competent Senior Divisional Officer, when the level of pollution observed is below the minimum quality level laid down by the regulation or in the face of some circumstances conducive of degradation.

(3) In order to limit or prevent a foreseeable increase in atmospheric pollution, especially following industrial and human development, and to specially protect the environment and preserve human health, sensitive areas may be created and demarcated by a joint order of the Ministers in charge of the environment, public health, territorial administration and mine at the proposal of the territorial competent Senior Divisional Officer.

(4) The Senior Divisional Officer may institute emergency procedures to cope with atmospheric pollution, with the approval of the competent local technical services.

23. (1) When persons responsible for discharging pollutants into the atmosphere beyond the norms laid down by the Administration do not respect regulations, the competent administration shall issue them a notice to pay in this light.

(2) Where this notice to pay is ineffective or does not produce the estimated effects either within the prescribed deadline or automatically in an emergency, the competent Administration shall, in consultation with the Administration in charge of the environment and the others concerned, suspend the functioning of the said plant or implement the necessary measures at the expense of the owner or recover the cost of the measures from the said owner.

24. To protect the atmosphere, the competent Administrative units, in collaboration with the Administration in charge of the environment and the private sector, shall take measures geared towards:

- implementing the Montreal Protocol and the amendments relating thereto;
- developing renewable energy;
- preserving the regulatory function of forests on the atmosphere.

SECTION II

PROTECTION OF CONTINENTAL WATERS AND FLOOD PLANTS

25. Continental waters constitute public property whose use, management and protection shall be subject to the provisions of this law and those of the laws and regulations in force.

26. The Administration in charge of water resources shall make an inventory establishing the extent of pollution of continental waters in keeping with physical, chemical, biological and bacteriological criteria. This inventory shall be amended periodically or each time an unusual pollution affects the state of these waters.

27. Flood plains shall be specially protected. This protection shall take into consideration their role and importance in biodiversity conservation.

28. The regulations on the protection of continental waters shall be the object of a special law.

29. Pending the provisions of article 30 below, direct or indirect spill incidents, discharges, dumping of any kind, and more generally, any act likely to provoke surface or underground water degradation through the modification of their physical, chemical, biological or bacteriological characteristics shall be prohibited.

30. (1) An enabling decree of this law shall draw up the list of harmful or dangerous substances produced in Cameroon whose direct or indirect discharge, spilling, dumping, immersion or introduction into Cameroonian continental waters are either prohibited or subject to prior authorization.

(2) The discharge of waste waters into the public purification network shall not hinder the conservation of works nor the management of networks.

(3) Plants discharging waste waters into cameroonian continental waters established before the promulgation of this law shall conform to the regulations within a time-limit laid down by an enabling decree of this law.

Plants set later on shall conform to the norms of dumping laid down by the regulation force.

Plants set up after the date of promulgation of this law shall, as soon as they go operational, conform to the norms of dumping laid down by the regulation force.

SECTION III

PROTECTION OF THE COAST AND MARITIME WATERS

31. (1) Without any prejudice to the relevant provisions of the international conventions relating to marine environmental protection duly ratified by the Republic of Cameroon, the discharge and immersion into the maritime waters under Cameroonian jurisdiction, as well as the incineration of all substances likely to:

- endanger human health and maritime biological resources;

- hinder maritime activities, including navigation, aquaculture and fishing;
- alter the quality of maritime waters from the point of view of their use;
- downgrade the value of authorization and the touristic potential of the sea and the coast.

(2) The list of these substances shall be specified by an enabling decree of this law.

32. (1) In the event of damages to or accidents in any ship, aircraft, device or platform transporting or carrying hydrocarbons or harmful or dangerous substances in waters under Cameroonian jurisdiction, which may create a serious or imminent danger for the marine environment and its resources, the owner of the said ship, aircraft, device, or platform shall be charged to pay for the rehabilitation of the contaminated site by the competent marine authorities, in application of the regulations in force.

(2) Where this charge is not heeded of or does not produce the expected results either within the given time-limit, or automatically, in an emergency, the competent authorities shall carry out the necessary measures at the expense of the shipowner, trader or owner and shall recover the sum of the cost of the measures from the later.

33. (1) The captain or officer in charge of any ship, aircraft, or device transporting or carrying hydrocarbons or harmful or dangerous substances in the sea waters under Cameroonian jurisdiction shall notify the competent authorities, by any means, of any event occurring on board and which is or could constitute a threat to the marine environment and related interests.

(2) The provisions necessary to prevent or fight against any marine pollution originating from ships and plants situated at sea and/or on land shall be stipulated by an enabling decree of this law.

34. (1) The Administration in charge of lands may upon request, grant authorization to occupy public land. Any such occupation shall not hinder free access to the marine public lands free movement on shore, nor promote erosion or degradation on the site.

(2) Only light and dismantlable plants, excluding any construction in concrete or for housing, shall be authorized to occupy the public marine and river domain on a private and temporary basis.

35. A non aedificandi zone whose regulations shall be laid down by the legislation on lands, shall be demarcated along maritime coasts, river banks and lakesides.

SECTION IV **PROTECTION OF SOILS AND THE SUBSOIL**

36. (1) The soil and sub-soil as well as the limited renewable or non-renewable resources contained therein, shall be protected against any forms of degradation and jointly managed rationally by the competent Administrations.

(2) An enabling decree of this law, prepared in collaboration with the Administrative units concerned, shall lay down:

- the specific conditions for the protection and fight against desertification, erosion, loss of arable land and pollution of the soil and its resources by chemicals, pesticides and fertilizers;
- the list of fertilizers, pesticides and other chemical substances whose use shall be authorized or encouraged in agriculture;
- the authorized quantities and the terms and conditions for their use, so that the substances do not endanger the soil quality or other receptor environments.

37. (1) Holders of mining permits or quarrying permits shall rehabilitate the exploited sites.

(2) However, holders of mining permits and quarrying permits may choose to pay the financial cost of rehabilitation carried out by the competent Administration.

The amount of and the terms and conditions for paying the relevant charges shall be laid down by an enabling decree of this law.

The corresponding sums shall be paid to the Fund provided for by this law and shall not be earmarked for other uses.

38. (1) The allotment and management of land for agricultural, industrial, urban or other uses, as well as prospecting, research or exploitation of sub-soil resources likely to endanger the environment, shall be subject of the prior authorization of each Administration concerned and after the obligatory opinion of the Administration in charge of the environment.

(2) An enabling decree of this law shall lay down the conditions for issuing the authorization provided for (1) above and the activities and uses which, on account of the dangers they pose for the soil, the sub-soil or their resources, shall be prohibited or subject to special procedures.

SECTION V

PROTECTION OF HUMAN SETTLEMENTS

39. (1) The protection, conservation and enhancement of the cultural and architectural heritage are of national interest.

(2) They are an integral part of the national policy of environmental protection and development.

40. (1) Urban development plans and public or private housing development plans shall take into consideration environmental protection while choosing locations for economic activity and residential and leisure zones. prior to their implementation, these plans must record the obligatory opinion of the Administration in charge of the environment.

(2) Urban centres shall comprise recreational grounds and lawns in a harmonious proportion laid down by urban development instruments and the Law on Forestry given the available space, the land occupation ratio and the population residing therein.

41. Building permits shall be issued duly taking into account the presence of classified establishments and their impact on the environment, and may not be issued or may be subject to special prescriptions jointly prepared by the Administrations in charge of the environment and housing, where the intended buildings are likely to have negative consequences on the environment.

CHAPTER IV

PLANTS CLASSIFIED AS DANGEROUS, UNHYGIENIC OR INCONVENIENT AND POLLUTING ACTIVITIES

SECTION I

WASTE

42. Waste shall be treated in an ecologically rational manner to eliminate or curb their harmful effects on human health, natural resources, the fauna and flora, and on the quality of the environment in general.

43. (1) Any person who produces or owns waste, shall eliminate or recycle it, or have it eliminated or recycled in plants authorized by the Administration in charge of classified establishments, after the obligatory opinion of the Administration in charge of the environment.

Besides, the person shall inform the public of the effects of waste production, owning, elimination or recycling on the environment and public health, pending the rule of confidentiality and the measures intended to prevent or compensate its negative effects.

(2) The conditions under which waste is collected, sorted out, stored, transported, recuperated, recycled or processed in any other way, and finally eliminated to avoid over-producing or wasting retrievable waste and environmental pollution in general shall be laid down by an enabling decree of this law.

44. The introduction, discharge, storage or transit of waste on the national territory and produced outside Cameroon shall be formally prohibited given the international commitments of Cameroon.

45. A regulation laid down by the joint orders of the competent administrations shall govern the manufacturing, importation, owning with the intention of selling or placing at the disposal of consumers, making of waste-generating products or materials so as to ease the elimination of the said waste, or if need be, prohibit these activities.

46. (1) Decentralized territorial councils shall eliminate household waste, possibly with the competent State services, in keeping with the laws in force.

(2) Besides, they shall:

- ensure the elimination of all midnight dumping;
- ensure the elimination of abandoned dumps with the assistance of the competent State services or authorized enterprises, when the owner or author of the dump is not known or identified.

47. (1) The person producing or processing waste shall eliminate the said waste under the joint authorization and monitoring of the Administrations in charge of the environment and mines respectively, in accordance with prescriptions laid down by regulation.

(2) Waste shall be discharged into dumps that are periodically inspected and which respect the minimum technical norms of dump management.

(3) Special industrial waste considered dangerous on account of their properties shall not be dumped in stock plants receiving other categories of waste.

48. (1) When waste is abandoned, dumped or processed in violation of the prescriptions of this law and its enabling regulations, the authority vested with police powers shall automatically eliminate the said waste at the expense of the said producer, after charging the producer to pay.

(2) The Administration shall oblige the producer to deposit to a public accountant a sum corresponding to the cost of the work to be done. The competent public accountant shall be appointed by order of the minister in charge of finance.

49. Waste immersion, incineration or elimination by any procedure in the continental and/or maritime waters under Cameroonian jurisdiction shall be strictly prohibited, duly taking into account the international commitments of Cameroon.

50. (1) The obligation of general maintenance which the public land dealers are subject to shall include those to eliminate, cause to be eliminated, or recycle waste contained in the land.

(2) The dumping of waste on public land shall be strictly prohibited, including public maritime land such as defined by the laws in force.

51. (1) Waste shall only be buried in the sub-soil with the prior joint authorization of the competent administrations which shall lay down the technical prescriptions and special rules to observe.

(2) The burial of waste without the authorization provided for in sub-paragraph (1) of this article shall lead to an excavation of the waste by the person who buried it, or after a charge to pay from the competent Administration, in collaboration with the other Administrations concerned.

52. (1) Areas damaged by work done without authorization or without observing prescriptions, and sites contaminated by midnight dumps or unauthorized buried waste shall be rehabilitated by officials or the closest possible restoration to their original state.

(2) Where a notice of the competent administration has no follow-up for one year, the State shall rehabilitate the site in collaboration with the other administrative units concerned.

53. The discharge of a pollutant into the air, water or soil shall be subject to an authorization. The conditions for the issue of this authorization shall be laid down by an enabling decree of this law.

SECTION II CLASSIFIED ESTABLISHMENTS

54. Factories, workshops, warehouses, building sites, and on the whole, industrial, cottage industrial or commercial plants exploited or owned by any private individual or corporate body, private or public institution, and which pose or may pose dangers for public health, security, hygiene, agriculture, nature and the environment in general, or disadvantages for the conveniences for the neighbourhood shall be subject to the provisions of the laws and regulations in force on classified establishments.

55. (1) In order to prevent and control accidents in clas-

sified establishments, the official in charge of the classified industrial or commercial establishment shall carry out a study on the dangers involved before opening the said establishment.

(2) The study on the dangers involved provided for in sub-paragraph 1 above shall comprise the following indications:

- inventory and description of dangers according to their internal or external origin;
- risks involved for the environment and the neighbourhood;
- justification of techniques and envisaged procedures for risk prevention;
- the plant design;
- exploitation guides;
- means of detection and intervention in the event of a disaster.

56. (1) The exploiter of any first or second class establishment as defined by the law on classified establishments shall establish a specific emergency plan to alert the competent authorities and neighbouring populations in the event of a disaster or threat of a disaster, the evacuation of persons and means of preventing the disaster.

(2) The emergency plant shall be approved by the competent Administration which shall regularly ensure the good condition and worthiness of the material provided to implement the plan.

SECTION III HARMFUL AND/OR DANGEROUS CHEMICAL SUBSTANCES

57. (1) Harmful and/or dangerous chemical substances which, on account of their toxic nature or their concentration in biological chains, or likely to be a danger for human health, the natural environment, and the environment in general when they are produced, imported into the national territory or dumped into the environment, shall be controlled and monitored by the competent technical Administrative units, in cooperation with the Administration unit in charge of the environment.

(2) Radioactive substances shall be governed by a special law.

58. An enabling decree of this law taken jointly by the competent administrative units shall regulate and lay down:

- the obligations of manufactures and importers of chemical substances intended for marketing, the composition of preparations placed on the market, the volume to be marketed;
- the list of substances whose production, importation, transit and movement on the national territory are prohibited or subject the prior authorization of the Administrative unit in charge of the control and monitoring of chemical, harmful and dangerous substances;
- the conditions, mode, itinerary and schedule of transport, as well as all prescriptions relating to the conditioning and marketing of the substances mentioned above;
- the conditions for issuing the prior authorization;
- the list of substances whose production, importation, transit and movement on the national territory are authorized.

59. (1) The chemical, harmful and dangerous substances manufactured, imported or sold in violation of the provisions of this law shall be seized by the officials in charge of suppressing fraud, or those on oath from the competent Administrative units.

(2) When the substances mentioned in (1) pose a real and imminent danger, they shall be destroyed or neutralized as soon as possible by the Administrative units mentioned in (1) above, at the expense of the offender.

SECTION IV RESONANT AND OLFACTORY NUISANCES

60. (1) The emission of noise and odours likely to be harmful to human health, excessively inconvenience the neighbourhood and endanger the environment shall be prohibited.

(2) Persons emitting this noise and odours unnecessarily or without any precaution shall take all the necessary measures to suppress, prevent or limit their propagation.

(3) In the event of an emergency, councils shall take all the necessary security measures intended, as a matter of course, to put an end to the trouble. If need be, they may seek the assistance of government forces.

61. An implementation decree of this law taken in collaboration with the competent administrative units shall determine:

- the cases of and conditions under which noises made

without absolute necessity and without taking precautions shall be prohibited or regulated;

- the conditions under which the buildings, industrial, commercial, cottage industrial or agricultural establishments, vehicles or other movables possessed, exploited or owned by any private individual or corporate body, shall be exploited, constructed or used in a way as to comply with the provisions of this law and its enabling instruments;
- the conditions under which all security measures shall be taken by the council to automatically put an end to danger, without any prejudice to the possible penal sentences;
- the deadline to be respected in compliance with the provisions of this law and the date of publication of each enabling regulation.

CHAPTER V NATURAL RESOURCE MANAGEMENT AND BIODIVERSITY CONSERVATION

62. The protection of nature, the preservation of animal and plant species and their habitat, the maintenance of biological balances and ecosystems and the conservation of biodiversity and genetic diversity against all causes of degradation and threats of extinction are of national interest. It shall devolve on the Administration and each citizen to safeguard the natural heritage.

63. Natural resources shall be managed rationally to meet the needs of the present generations without comprising the capacity of future generations to meet their own needs.

64. (1) Cameroon's biodiversity is used sustainably, especially through:

- an inventory of existing species, particularly of those that are endangered;
- management plans of species and the preservation of their habitat;
- a system on the control of access to genetic resources.

(2) Biodiversity conservation through the protection of the fauna and flora, the creation and management of natural reserves and national parks shall be governed by the laws and regulations in force.

(3) The State may erect any part of the national territory into an ecologically protected area. Such an area shall be the subject of an environmental management plan.

65. (1) Scientific exploration and biological and genetic resource exploitation in Cameroon shall be done under conditions of transparency and in close collaboration with national research institutions and local communities and should be profitable to Cameroon. The exploration and exploitation should be done under the conditions stipulated by the international conventions relating thereto, duly ratified by Cameroon, especially the Rio Convention of 1992 on biodiversity.

(2) An enabling decree of this law shall lay down the terms and conditions under which foreign researchers and Cameroonian research institutions and local communities shall collaborate.

66. An enabling decree of this law shall determine the historic archeological and scientific sites, as well as the sites that are of special panoramic beauty, and shall ensure their protection and lay down the conditions under which they shall be managed.

67. (1) Mining resources and quarries shall be explored and exploited in an ecologically rational manner, making allowance for environmental considerations.

(2) These activities shall be carried out in keeping with the provisions of the laws in force.

68. (1) The protection of land against erosion and the prevention and fight against desertification are publicly useful. These actions are taken particularly through the planification of the land use and zoning, reforestation as well as the dissemination of ecologically efficient methods of land use.

(2) These activities shall be carried out in keeping with the laws in force and the enabling instruments of this law, as well as the relevant international conventions duly ratified by Cameroon.

69. (1) Resources shared with other States shall be managed sustainably, and as much as possible, in cooperation with the State Concerned.

(2) This cooperation shall be by virtue of the international conventions signed between the States sharing these resources.

CHAPTER VI RISKS AND NATURAL DISASTERS

70. On the initiative of each competent administration and in concert with the other administrative units, as well as under the coordination of the Administration in charge of the environment, a national map and monitoring plans of high risk and natural disaster zones, especially seismic and/or volcanic zones, flood zones, zones likely to

experience landslides, marine and atmospheric pollution risk zones, drought and desertification zones as well as magmato-phreatic eruption zones, shall be prepared.

71. Risk prevention shall comply with the principles of this law as well as the relevant provisions provided for by the specific instruments in force.

PART IV

IMPLEMENTATION AND FOLLOW-UP OF PROGRAMMES

SOLE CHAPTER PARTICIPATION OF POPULATIONS

72. Populations shall be encouraged to participate in environmental management, especially through:

- free access to environmental information, pending the imperatives of national defence and state security;
- consultative mechanisms to take stock of the opinion and contributions of the populations;
- representation of populations within environmental advisory bodies;
- production of environmental information;
- sensitization, training, research and education on the environment.

73. Environmental education should be introduced in primary and secondary school curriculums as well as in institutions of higher learning.

74. In order to strengthen environmental awareness in the society and increase the sensitization on and participation of populations in environmental issues, the Administration in charge of the environment and communication, as well as other Administrative units and public bodies concerned shall launch information and sensitization campaigns using the media and other means of information.

To this end, they shall make use of the traditional means of communication as well as the traditional authorities and associations working in the field of the environment and development.

PART V

INCENTIVE MEASURES

75. Any operation contributing to the elimination of erosion and the effective fight against desertification, and to the promotion of the rational use of renewable resources, especially in the savannah zones and the northern part of the country shall benefit from a support from the fund provided for by this law.

76. (1) Industrial establishments importing equipment to enable them eliminate green house gases like carbon dioxide, chlorofluorocarbons, in their manufacturing process or in their products, or to reduce any form of pollution shall benefit from a reduction of the custom duty on these equipment; the proportion and duration of which shall be determined by the Finance Law as and when necessary.

(2) Private individuals and corporate bodies promoting the environment shall benefit from a deduction on taxable profits according to the terms and conditions laid down by the Finance law.

PART VI

LIABILITY AND SANCTIONS

CHAPTER I LIABILITY

77. (1) Without any prejudice to the sanctions applicable within the framework of penal liability, any person transporting or using hydrocarbons or chemical, harmful and dangerous substances, or any operator of a classified establishment who has caused body or material damage directly or indirectly linked to the exercise of the above mentioned activities shall be liable for damages without the need to prove his offence.

(2) The reparation of the damage mentioned in (1) of this article shall be jointly borne when the author of the damage proves that the body or material damage is the fault of the victim. It shall be exonerated in the event of a force majeure.

78. When the constituent elements of the offence originate from an industrial, commercial, cottage industrial,

or agricultural establishment, the owner, operator, director or manager as the case might be, may be liable to fines or legal fees owned by the authors of the offence, and to the rehabilitation of the sites.

CHAPTER VI SANCTIONS

79. The following persons shall be liable to a fine of 2,000,000 (two million) to 5,000,000 (five million) CFA frs and a prison sentence of 6 (sic) months to 2 (two) years or only one of these two sanctions:

- any person having implemented a project needing impact assessment, without carrying out such assessment;
- Any person having implemented a project that does not conform to the criteria, norms and measures spelled out for the impact assessment;
- any person having obstructed the checks and analyses provided for by this law and/or its enabling instruments.

80. Any person who dumps toxic and/or dangerous waste on Cameroonian territory shall be liable to a fine of 50,000,000 (fifty million) to 500,000,000 (five hundred million) CFA frs and life imprisonment.

81. (1) Any person having imported, produced, owned and/or used harmful or dangerous substances in violation of the regulations shall be liable to a fine of 10,000,000 (ten million) to 50,000,000 (fifty million) CFA frs and a prison sentence of 2 (to) to 5 (five) years or only one of these two punishments.

(2) In the event of subsequent offences, the maximum total amount of the sanctions shall be doubled.

82. (1) Any person having polluted, or degraded soils and sub-soils, altered the quality of air and waters in violation of the provisions of this law shall be liable to a fine of 1,000,000 (one million) to 5,000,000 (five million) CFA frs and a prison sentence of 6 (six) months to 1 (one) year or only one of these two.

(2) In the event of subsequent offences, the maximum total amount of the sanctions shall be doubled.

8.3 (1) Any captain of a ship who is guilty of dumping hydrocarbons or other marine environmentally harmful liquid substances into marine waters under Cameroonian jurisdiction in violation of the provisions of this law and its enabling instrument for international conventions relating to the prevention of marine pollution to which Cameroon is a party, shall be liable to a fine of 10,000,000

(ten million) to 50,000,000 (fifty million) CFA frs and a prison sentence of 6 (sic) months to 1 (one) year or only one of these two sanctions.

(2) When the offending boat is other than a tanker, and the gross registered tonnage is lower than 400 (four hundred), the sanctions provided for in sub-paragraph I of this article shall be reduced, while the minimum fine shall not be lower than 1,000,000 (one million) CFA frs.

(3) In the event of subsequent offences, the maximum total amount of the sanctions shall be doubled.

(4) The sanctions provided for by this article shall apply without prejudice to the right to compensation of public or private establishments as well as of persons having suffered damages originating from pollution.

(5) The sanctions provided for by this article shall not apply to dumping by a ship to ensure its own security or that of other ships, or to save human life; neither shall they apply to discharges resulting from damages suffered by the ship without the establishment of any offence against its captain or crew.

84. (1) Any person having operated a plant or used a movable object in violation of the provisions of this law shall be liable to a fine of 500,000 (five hundred thousand) to 2,000,000 (two million) CFA frs and a prison sentence of 6 (six) months to 1 (one) year, or only one of these two sanctions.

(2) In the event of subsequent offences, the maximum total amount of the sanctions shall be doubled.

85. The sanctions provided for by this law shall be supplemented by those contained in the Penal Code as well as in various sectoral laws applicable to environmental protection.

86. The sanction shall be doubled when the above-mentioned offences are committed by an official of the Administration in charge of environmental management, or with their complicity.

87. The provisions or articles 54 and 90 of the Penal Code relating to stay of proceedings and mitigating circumstances shall not apply to the sanctions provided for by this law.

CHAPTER III ESTABLISHMENT OF INFRINGEMENTS

88. (1) Without prejudice to the prerogatives of the public prosecutor, and the judicial police vested with general

competence, the officials on oath of the Administration in charge of the environment and other Administrative units concerned, especially those of the cadastral survey, town planning, public works, forests, the merchant, mines, industry, labour and tourism services shall be in charge of research and establishment of infringements in keeping with the provisions of this law and its enabling instruments.

(2) The officials mentioned in sub-paragraph (1) above shall take an oath before the competent court, upon the request of the Administration concerned, following the terms and conditions laid down by an enabling decree of this law.

(3) In the exercise of their duties, the officials on oath shall carry their professional card.

89. An established infringement shall be the subject of a regular report. Infringements shall be sought for an established by two officials who shall cosign the report. The report shall be authentic until a plea of forgery is introduced.

90. (1) Any report establishing an infringement shall be forwarded immediately to the competent Administration which shall notify the offender of it. The offender shall have a time-limit of 20 (twenty) days as from the date of notification to contest the report. After this time-limit, any contesting shall be inadmissible.

(2) Where there is contesting within the time-limit provided in sub-paragraph I of this article, the reclamation shall be examined by the competent Administration.

Where the contesting is founded, the report shall be closed with no follow-up.

Where the contesting is unfounded, and in the absence of a final compromise or arbitration, the competent Administration shall undertake legal proceedings in keeping with the law.

CHAPTER IV COMPROMISE AND ARBITRATION

91. (1) The Administrative units in charge of environmental management shall have the full right to effect a compromise. To do this, they shall be duly notified by the defaulter.

(2) The amount of the compromise shall be fixed in consultation with the Administration in charge of finance. This amount shall not be lower than the minimum of the corresponding sanction.

(3) The compromise shall be effected before any possible legal procedure, under pain of nullity.

(4) All proceeds from the compromise shall be paid to the fund provided for by this law.

92. Parties to an environmental dispute may settle the dispute by a joint agreement reached through arbitration.

93. (1) Traditional authorities shall have the competence to settle disputes relating to the use of some natural resources, especially water and pastures on the strength of the local ways and customs, without infringing on the right of the parties to the conflict to refer the matter to the competent courts.

(2) A report on the settlement of the conflict shall be drawn up. A copy of this report duly signed by the traditional authority and the parties to the conflict or their representatives shall be deposited with the administrative authority under whose territorial jurisdiction the village community or the site of the conflict is situated.

PART XII

MISCELLANEOUS AND FINAL PROVISIONS

94. Mangrove ecosystems shall be specially protected, taking into account their role and importance in marine

biodiversity conservation and the maintenance of coastal ecological balances.

95. The State shall ensure "*in situ*" and "*ex situ*" conservation of genetic resources in accordance with the terms and conditions laid down by special laws.

96. (1) Any decision taken or authorization given within the framework of this law, without the prior opinion of the Administration in charge of the environment as provided for by the said law shall be null and void.

Any person interested in taking action may invoke the nullity of the said decision or authorization.

(2) The enabling decree of this law shall lay down, as the case may be, the terms and conditions under which the Administration in charge of the environment shall give its opinion.

97. The enabling decrees of this law shall lay down the said terms and conditions as and when necessary.

98. (1) This law shall apply without any prejudice to the compatible provisions of the special laws in force on environmental management.

(2) However, the provisions of article 4 (1) N° 9/27 of 29 December 1989 on toxic and dangerous waste, are hereby repealed.

99. This law shall be registered, published according to the procedure of urgency, then inserted in the Official Gazette in English and French.

YAOUNDE, 5 AUGUST 1996

THE PRESIDENT OF THE REPUBLIC, PAUL BIYA

CAMEROUN

Loi no. 96/12 du 5 Aout 1996 Portant Loi-cadre relatif à la gestion de l'Environnement

L'Assemblée Nationale a délibéré et adopté,

Le Président de la République promulgue la Loi dont la teneur suit:

TITRE I

DES DISPOSITIONS GENERALES

ARTICLE 1er:- La présente loi fixe le cadre juridique général de la gestion de l'environnement au Cameroun.

ARTICLE 2:- (1) L'environnement constitue en République du Cameroun un patrimoine commun de la nation. Il est une partie intégrante du patrimoine universel.

(2) Sa protection et la gestion rationnelle des ressources qu'il offre à la vie humaine sont d'intérêt général. Celles-ci visent en particulier la géosphère, l'hydrosphère, l'atmosphère, leur contenu matériel et immatériel, ainsi que les aspects sociaux et culturels qu'ils comprennent.

ARTICLE 3:- Le Président de la République définit la politique nationale de l'environnement. Sa mise en oeuvre incombe au Gouvernement qui l'applique, de concert avec les collectivités territoriales décentralisées, les communautés de base et les associations de défense de l'environnement.

A cet effet, le Gouvernement élabore des stratégies, plans ou programmes nationaux tendant à assurer la conservation et l'utilisation durables des ressources de l'environnement.

CHAPITRE I DES DEFINITIONS

ARTICLE 4:- Au sens de la présente loi et de ses textes

d'application, on entend par:

- (a) "air": l'ensemble des éléments constituant le fluide atmosphérique et dont la modification physique, chimique ou autre peut porter atteinte aux être vivants, aux écosystèmes et à l'environnement en général;
- (b) "audit environnemental": l'évaluation systématique, documentée et objective de l'état de gestion de l'environnement et de ses ressources;
- (c) "déchet": tout résidu d'un processus de production, de transformation ou d'utilisation, toute substance ou tout matériau produit ou, plus généralement, tout bien meuble ou immeuble abandonné ou destiné à l'abandon;
- (d) "développement durable": le mode de développement qui vise à satisfaire les besoins de développement des générations présentes sans compromettre les capacités des générations futures à répondre aux leurs;
- (e) "eaux continentales": l'ensemble hydrographique des eaux de surface et des eaux souterraines;
- (f) "eaux maritimes": les eaux saumâtres et toutes les eaux de mer sous juridiction nationale camerounaise;
- (g) "écologie": l'étude des relations qui existent entre les différents organismes vivants et le milieu ambiant;
- (h) "écosystème": le complexe dynamique formé de communautés de plantes, d'animaux, de micro-organismes et de leur environnement vivant qui, par leur interaction forment une unité fonctionnelle;
- (i) "effluent": tout rejet liquide et gazeux d'origine domestique, agricole ou industrielle, traité ou non traité et déversé directement ou indirectement dans l'environnement;
- (j) "élimination des déchets": l'ensemble des opérations comprenant la collecte, le transport, le stockage et le traitement nécessaires à la récupération des matériaux utiles ou de l'énergie, à leur recyclage, ou tout dépôt

- ou rejet sur les endroits appropriés de tout autre produit dans des conditions à éviter les nuisances et la dégradation de l'environnement;
- (k) "environnement": l'ensemble des éléments naturels ou artificiels et des équilibres bio-géochimiques auxquels ils participent, ainsi que des facteurs économiques, sociaux et culturels qui favorisent l'existence, la transformation et le développement du milieu, des organismes vivants et des activités humaines;
- (l) "équilibre écologique": le rapport relativement stable créé progressivement au cours des temps entre l'homme, la faune et la flore, ainsi que leur interaction avec les conditions du milieu naturel dans lequel ils vivent;
- (m) "établissements classés": les établissements qui présentent des causes de danger ou des inconvénients, soit pour la sécurité, la salubrité ou la commodité du voisinage, soit pour la santé publique, ou pour l'agriculture, ainsi que pour la pêche;
- (n) "établissements humains": l'ensemble des agglomérations urbaines et rurales, quels que soient leur type et leur taille, et l'ensemble des infrastructures dont elles doivent disposer pour assurer à leurs habitants une existence saine et décente;
- (o) "étude d'impact environnemental": l'examen systématique en vue de déterminer si un projet a ou n'a pas un effet défavorable sur l'environnement;
- (p) "gestion écologiquement rationnelle des déchets": toutes mesures pratiques permettant d'assurer que les déchets sont gérés d'une manière qui garantisse la protection de la santé humaine et de l'environnement, contre les effets nuisibles que peuvent avoir ces déchets;
- (q) "gestion des déchets": la collecte, le transport, le recyclage et l'élimination des déchets, y compris la surveillance des sites d'élimination;
- (r) "installation": tout dispositif ou toute unité fixe ou mobile susceptible d'être générateur d'atteinte à l'environnement, quel que soit son propriétaire ou son affectation;
- (s) "nuisance": l'ensemble des facteurs d'origine technique ou sociale qui compromettent l'environnement et rendent la vie malsaine ou pénible;
- (t) "polluant": toute substance ou tout rejet solide, liquide ou gazeux, tout déchet, odeur, chaleur, son, vibration, rayonnement ou combinaison de ceux-ci, susceptibles de provoquer une pollution;
- (u) "pollueur": toute personne physique ou morale émettant un polluant qui entraîne un déséquilibre dans le milieu naturel;
- (v) "pollution": toute contamination ou modification directe ou indirecte de l'environnement provoquée par tout acte susceptible:
- d'affecter défavorablement une utilisation du milieu favorable à l'homme;
 - de provoquer ou qui risque de provoquer une situation préjudiciable pour la santé, la sécurité, le bien-être de l'homme, la flore et la faune, l'air, l'atmosphère, les eaux, les sols et les biens collectifs et individuels;
- (w) "ressource génétique": le matériel animal ou végétal d'une valeur réelle ou potentielle.

CHAPITRE II DES OBLIGATIONS GENERALES

ARTICLE 5:- Les lois et règlements doivent garantir le droit de chacun à un environnement sain et assurer un équilibre harmonieux au sein des écosystèmes et entre les zones urbaines et les zones rurales.

ARTICLE 6:- (1) Toutes les institutions publiques et privées sont tenues, dans le cadre de leur compétence, de sensibiliser l'ensemble des populations aux problèmes de l'environnement.

(2) Elles doivent par conséquent intégrer dans leurs activités des programmes permettant d'assurer une meilleure connaissance de l'environnement.

ARTICLE 7:- (1) Toute personne a le droit d'être informée sur les effets préjudiciables pour la santé, l'homme et l'environnement des activités nocives, ainsi que sur les mesures prises pour prévenir ou compenser ces effets.

(2) Un décret définit la consistance et les conditions d'exercice de ce droit.

ARTICLE 8:- (1) Les associations régulièrement déclarées ou reconnues d'utilité publique et exerçant leurs activités statutaires dans le domaine de la protection de l'environnement ne peuvent contribuer aux actions des organismes publics et para-publics en la matière que si elles sont agréées suivant des modalités fixées par des textes particuliers.

(2) Les communautés de base et les associations agréées contribuant à toute action des organismes publics et para-publics ayant pour objet la protection de l'environnement,

peuvent exercer les droits reconnus à la partie civile en ce qui concerne les faits constituant une infraction aux dispositions de la présente loi et de ses textes d'application, et causant un préjudice direct ou indirect aux intérêts collectifs qu'elles ont pour objet de défendre.

(f) le principe de subsidiarité selon lequel, en l'absence d'une règle de droit écrit, générale ou spéciale en matière de protection de l'environnement, la norme coutumière identifiée d'un terroir donné et avérée plus efficace pour la protection de l'environnement s'applique.

CHAPITRE III DES PRINCIPES FONDAMENTAUX

ARTICLE 9:- La gestion rationnelle de l'environnement et des ressources naturelles s'inspire, dans le cadre des lois et règlements en vigueur, des principes suivants:

- (a) le principe de précaution, selon lequel l'absence de certitudes, compte tenu des connaissances scientifiques et techniques du moment, ne doit pas retarder l'adoption des mesures effectives et proportionnées visant à prévenir un risque de dommages graves et irréversibles à l'environnement à un coût économiquement acceptable;
- (b) le principe d'action préventive et de correction, par priorité à la source, des atteintes à l'environnement, en utilisant les meilleures techniques disponibles à un coût économiquement acceptable;
- (c) le principe pollueur-payeur, selon lequel les frais résultant des mesures de prévention, de réduction de la pollution et de la lutte contre celle-ci et de la remise en l'état des sites pollués doivent être supportés par le polluer;
- (d) le principe de responsabilité, selon lequel toute personne qui, par son action crée des conditions de nature à porter atteinte à la santé de l'homme et à l'environnement, est tenue d'en assurer ou d'en faire assurer l'élimination dans des conditions propres à éviter lesdits effets;
- (e) le principe de participation selon lequel:
 - chaque citoyen doit avoir accès aux informations relatives à l'environnement, y compris celles relatives aux substances et activités dangereuses;
 - chaque citoyen a le devoir de veiller à la sauvegarde de l'environnement et de contribuer à la protection de celui-ci;
 - les personnes publiques et privées doivent, dans toutes leurs activités, se conformer aux mêmes exigences;
 - les décisions concernant l'environnement doivent être prises après concertation avec les secteurs d'activité ou les groupes concernés, ou après débat public lorsqu'elles ont une portée générale;

TITRE II

DE L'ELABORATION, DE LA COORDINATION ET DU FINANCEMENT DES POLITIQUES DE L'ENVIRONNEMENT

ARTICLE 10:- (1) Le Gouvernement élabore les politiques de l'environnement et en coordonne la mise en oeuvre.

A cette fin, notamment, il:

- établit les normes de qualité pour l'air, l'eau, le sol et toutes normes nécessaires à la sauvegarde de la santé humaine et de l'environnement;
- établit des rapports sur la pollution, l'état de conservation de la diversité biologique et sur l'état de l'environnement en général;
- initie des recherches sur la qualité de l'environnement et les matières connexes;
- prépare une révision du Plan National de Gestion de l'Environnement, selon la périodicité prévue à l'article 14 de la présente loi, en vue de l'adapter aux exigences nouvelles dans ce domaine;
- initie et coordonne les actions qu'exige une situation critique, un état d'urgence environnemental ou toutes autres situations pouvant constituer une menace grave pour l'environnement;
- publie et diffuse les informations relatives à la protection et à la gestion de l'environnement;
- prend toutes autres mesures nécessaires à la mise en oeuvre de la présente loi.

(2) Il est assisté dans ses missions d'élaboration, de coordination, d'exécution et de contrôle des politiques de l'environnement par un Comité Interministériel de l'Environnement et une Commission Nationale Consultative de l'Environnement et du Développement Durable dont les attributions, l'organisation et le fonctionnement

sont fixés par des décrets d'application de la présente loi.

ARTICLE 11:- (1) Il est institué un compte spécial d'affectation du Trésor, dénommé "Fonds National de l'Environnement et du Développement durable" et ci-après désigné le "Fonds", qui a pour objet:

- de contribuer au financement de l'audit environnemental;
- d'appuyer les projets de développement durable;
- d'appuyer la recherche et l'éducation environnementales;
- d'appuyer les programmes de promotion des technologies propres;
- d'encourager les initiatives locales en matière de protection de l'environnement et de développement durable;
- d'appuyer les associations agréées engagées dans la protection de l'environnement qui mènent des actions significatives dans ce domaine;
- d'appuyer les actions des départements ministériels dans le domaine de la gestion de l'environnement.

(2) L'organisation et le fonctionnement du Fonds sont fixés par un décret du Président de la République.

ARTICLE 12:- (1) Les ressources du Fonds proviennent:

- des dotations de l'Etat;
- des contributions des donateurs internationaux;
- des contributions volontaires;
- du produit des amendes de transaction telle que prévue par la présente loi;
- des dons et legs;
- des sommes recouvrées aux fins de remise en l'état des sites;
- de toute autre recette affectée ou autorisée par la loi.

(2) Elles ne peuvent être affectées à d'autres fins que celles ne correspondant qu'à l'objet du Fonds.

TITRE III

DE LA GESTION DE L'ENVIRONNEMENT

CHAPITRE I DU PLAN NATIONAL DE GESTION DE L'ENVIRONNEMENT

ARTICLE 13:- Le Gouvernement est tenu d'élaborer un Plan National de Gestion de l'Environnement. Ce Plan est révisé tous les cinq (5) ans.

ARTICLE 14:- (1) L'Administration chargée de l'environnement veille à l'intégration des considérations environnementales dans tous les plans et programmes économiques, énergétiques, fonciers et autres.

(2) Elle s'assure, en outre, que les engagements internationaux du Cameroun en matière environnementale sont introduits dans la législation, la réglementation et la politique nationale en la matière.

ARTICLE 15:- L'Administration chargée de l'environnement est tenue de réaliser la planification et de veiller à la gestion rationnelle de l'environnement, de mettre en place un système d'information environnementale comportant une base de données sur les différents aspects de l'environnement, au niveau national et international.

A cette fin, elle enregistre toutes les données scientifiques et technologiques relatives à l'environnement et tient un recueil à jour de la législation et réglementation nationales et des instruments juridiques internationaux en matière d'environnement auxquels de Cameroun est partie.

ARTICLE 16:- (1) L'Administration chargée de l'environnement établit un rapport biannuel sur l'état de l'environnement au Cameroun et le soumet à l'approbation du Comité Inter-ministériel de l'Environnement.

(2) Ce rapport est publié et largement diffusé.

CHAPITRE II DES ETUDES D'IMPACT ENVIRONNEMENTAL

ARTICLE 17:- (1) Le promoteur ou le maître

d'ouvrage de tout projet d'aménagement, d'ouvrage, d'équipement ou d'installation qui risque, en raison de sa dimension, de sa nature ou des incidences des activités qui y sont exercées sur le milieu naturel, de porter atteinte à l'environnement est tenu de réaliser, selon les prescriptions du cahier des charges, une étude d'impact permettant d'évaluer les incidences directes ou indirectes dudit projet sur l'équilibre écologique de la zone d'implantation ou de toute autre région, le cadre et la qualité de vie des populations et des incidences sur l'environnement en général.

Toutefois, lorsque ledit projet est entrepris pour le compte de services de la défense ou de la sécurité nationale, le Ministre chargé de la Défense ou, selon le cas de la Sécurité nationale, assure la publicité de l'étude d'impact dans des conditions compatibles avec les secrets de la défense ou de la sécurité nationale.

(2) L'étude d'impact est insérée dans les dossiers soumis à enquête publique, lorsqu'une telle procédure est prévue.

(3) L'étude d'impact est à la charge du promoteur.

(4) Les modalités d'application des dispositions du présent article sont fixées par un décret d'application de la présente loi.

ARTICLE 18:- Toute étude d'impact non conforme aux prescriptions du cahier des charges est nulle et de nul effet.

ARTICLE 19:- (1) La liste des différentes catégories d'opérations dont la réalisation est soumise à une étude d'impact, ainsi que les conditions dans lesquelles l'étude d'impact est rendue publique sont fixées par un décret d'application de la présente loi.

(2) L'étude d'impact doit comporter obligatoirement les indications suivantes:

- l'analyse de l'état initial du site et de son environnement;
- les raisons du choix du site;
- l'évaluation des conséquences prévisibles de la mise en oeuvre du projet sur le site et son environnement naturel et humain;
- l'énoncé des mesures envisagées par le promoteur ou maître d'ouvrage pour supprimer, réduire et, si possible, compenser les conséquences dommageables du projet sur l'environnement et l'estimation des dépenses correspondantes;
- la présentation des autres solutions possibles et des raisons pour lesquelles, du point de vue de la

protection de l'environnement, le projet présenté a été retenu.

ARTICLE 20:- (1) Toute étude d'impact donne lieu à une décision motivée de l'Administration compétente, après avis préalable du Comité Interministériel prévu par la présente loi, sous peine de nullité absolue de cette décision.

La décision de l'Administration compétente doit être prise dans un délai maximum de quatre (4) mois à compter de la date de notification de l'étude d'impact.

Passé ce délai, et en cas de silence de l'Administration, le promoteur peut démarrer ses activités.

(2) Lorsque l'étude d'impact a été méconnue ou la procédure d'étude d'impact non respectée en tout ou en partie, l'Administration compétente ou, en cas de besoin, l'Administration chargée de l'environnement requiert la mise en oeuvre des procédures d'urgence appropriées permettant de suspendre l'exécution des travaux envisagés ou déjà entamés. Ces procédures d'urgence sont engagées sans préjudice des sanctions pénales prévues par la présente loi.

CHAPITRE III DE LA PROTECTION DES MILIEUX RECEPTEURS

SECTION I DE LA PROTECTION DE L'ATMOSPHERE

ARTICLE 21:- Il est interdit:

- de porter atteinte à la qualité de l'air ou de provoquer toute forme de modification de ses caractéristiques susceptibles d'entraîner un effet nuisible pour la santé publique ou les biens;
- d'émettre dans l'air toute substance polluante notamment les fumées, poussières ou gaz toxiques, corrosifs ou radioactifs, au-delà des limites fixées par les textes d'application de la présente loi ou, selon le cas, par des textes particuliers;
- d'émettre des odeurs qui, par leur concentration ou leur nature, s'avèrent particulièrement incommodantes pour l'homme.

ARTICLE 22: (1) Afin d'éviter la pollution atmosphérique, les immeubles, les établissements agricoles, industriels, commerciaux ou artisanaux, les véhicules ou autres objets mobiliers possédés, exploités

ou détenus par toute personne physique ou morale doivent être construits, exploités ou utilisés de manière à satisfaire aux normes techniques en vigueur ou établies en application de la présente loi ou de textes particuliers.

(2) Des zones de protection spéciale faisant l'objet de mesures particulières sont, en cas de nécessité, instituées par décret sur proposition du Préfet territorialement compétent lorsque le niveau de pollution observée se situe en-deçà du seuil minimum de qualité fixé par la réglementation ou au regard de certaines circonstances propres à en aggraver la dégradation.

(3) En vue de limiter ou de prévenir un accroissement prévisible de la pollution atmosphérique à la suite notamment de développements industriels et humains, d'assurer une protection particulière de l'environnement, ainsi que de préserver la santé de l'homme, des zones sensibles peuvent être créées et délimitées sur proposition du Préfet territorialement compétent par arrêté conjoint des Ministres chargés de l'environnement, de la santé publique, de l'administration territoriale et des mines.

(4) Le Préfet peut instituer des procédures d'alerte à la pollution atmosphérique, après avis des services techniques locaux compétents.

ARTICLE 23:-(1) Lorsque les personnes responsables d'émissions polluantes dans l'atmosphère, au-delà des normes fixées par l'Administration, n'ont pas pris de dispositions pour être en conformité avec la réglementation, l'Administration compétente leur adresse une mise en demeure à cette fin.

(2) Dans le cas où cette mise en demeure reste sans effet ou n'a pas produit les effets escomptés dans le délai imparti ou d'office, en cas d'urgence, l'Administration compétente doit, en concertation avec l'Administration chargée de l'environnement et les autres concernées, suspendre le fonctionnement de l'installation en cause ou faire exécuter les mesures nécessaires, aux frais du propriétaire ou en recouvrer le montant du coût auprès de ce dernier.

ARTICLE 24:- Aux fins de la protection de l'atmosphère, les Administrations compétentes, en collaboration avec l'Administration chargée de l'environnement et le secteur privé, sont chargées de prendre les mesures tendant à:

- appliquer le Protocole de Montréal et ses amendements;
- développer les énergies renouvelables;
- préserver la fonction régulatrice des forêts sur l'atmosphère.

SECTION II

DE LA PROTECTION DES EAUX CONTINENTALES ET DES PLAINES D'INONDATION

ARTICLE 25:- Les eaux continentales constituent un bien du domaine public dont l'utilisation, la gestion et la protection sont soumises aux dispositions de la présente loi ainsi qu'à celles de la législation et de la réglementation en vigueur.

ARTICLE 26:- L'Administration chargée de la gestion des ressources en eau dresse un inventaire établissant le degré de pollution des eaux continentales, en fonction des critères physiques, chimiques, biologiques et bactériologiques. Cet inventaire est révisé périodiquement ou chaque fois qu'une pollution exceptionnelle affecte l'état de ces eaux.

ARTICLE 27:- Les plaines d'inondation font l'objet d'une protection particulière. Cette protection tient compte de leur rôle et de leur importance dans la conservation de la diversité biologique.

ARTICLE 28:- Le régime de protection des eaux continentales fait l'objet d'une loi particulière.

ARTICLE 29:- Sont interdits, sous réserve des dispositions de l'article 30 ci-dessous, les déversements, écoulements, rejets, dépôts, directs ou indirects de toute nature et, plus généralement, tout fait susceptible de provoquer la dégradation des eaux superficielles ou souterraines en modifiant leurs caractéristiques physiques, chimiques, biologiques ou bactériologiques.

ARTICLE 30:- (1) Un décret d'application de la présente loi fixe la liste des substances nocives ou dangereuses produites au Cameroun, dont le rejet, le déversement, le dépôt, l'immersion ou l'introduction de manière directe ou indirecte dans les eaux continentales camerounaises sont soit interdits, soit soumis à autorisation préalable.

(2) Les déversements d'eaux résiduaires dans le réseau d'assainissement public ne doit nuire ni à la conservation des ouvrages, ni à la gestion des réseaux.

(3) Les installations rejetant des eaux résiduaires dans les eaux continentales camerounaises établies antérieurement à la date de promulgation de la présente loi doivent se conformer à la réglementation dans un délai fixé par un décret d'application de ladite loi.

Les installations établies postérieurement à la date de promulgation de la présente loi doivent, dès leur mise en fonctionnement, être conformes aux normes de rejet fixées par la réglementation en vigueur.

SECTION III DE LA PROTECTION DU LITTORAL ET DES EAUX MARITIMES

ARTICLE 31:- (1) Sans préjudice des dispositions pertinentes des conventions internationales relatives à la protection de l'environnement marin, dûment ratifiées par la République du Cameroun, sont interdits le déversement, l'immersion et l'incinération dans les eaux maritimes sous juridiction camerounaise, de substances de toute nature susceptibles:

- de porter atteinte à la santé de l'homme et aux ressources biologiques maritimes;
- de nuire aux activités maritimes, y compris la navigation, l'aquaculture et la pêche;
- d'altérer la qualité des eaux maritimes du point de vue de leur utilisation;
- de dégrader les valeurs d'agrément et le potentiel touristique de la mer et du littoral.

(2) La liste des substances visées au (1) ci-dessus est précisée par un décret d'application de la présente loi.

ARTICLE 32:- (1) Dans le cas d'avaries ou d'accidents survenus dans les eaux maritimes sous juridiction camerounaise à tout navire, aéronef, engin ou plate-forme transportant ou ayant à son bord des hydrocarbures ou des substances nocives ou dangereuses et pouvant créer un danger grave et imminent au milieu marin et à ses ressources, le propriétaire dudit navire, aéronef, engin ou plate-forme est mis en demeure par les autorités maritimes compétentes de remettre en l'état le site contaminé en application de la réglementation en vigueur.

(2) Dans le cas où cette mise en demeure reste sans effet ou n'a pas produit les effets attendus dans le délai imparti, ou d'office en cas d'urgence, les autorités compétentes font exécuter les mesures nécessaires aux frais de l'armateur, de l'exploitant ou du propriétaire et en recouvrent le montant du coût auprès de ce dernier.

ARTICLE 33:- (1) Le capitaine ou le responsable de tout navire, aéronef, engin, transportant ou ayant à son bord des hydrocarbures ou des substances nocives ou dangereuses et se trouvant dans les eaux maritimes sous juridiction camerounaise, est tenu de signaler par tout moyen, aux autorités compétentes tout événement de mer survenu à son bord et qui est ou pourrait être de nature à constituer une menace pour le milieu marin et des intérêts connexes.

(2) Les dispositions nécessaires pour prévenir et combattre toute pollution marine en provenance des navires et des installations sises en mer et/ou sur terre

sont fixées par un décret d'application de la présente loi.

ARTICLE 34:- (1) L'Administration chargée des domaines peut accorder, sur demande, une autorisation d'occupation du domaine public. L'occupation effectuée en vertu de cette autorisation ne doit entraver ni le libre accès aux domaines publics maritime et fluvial, ni la libre circulation sur la grève, ni être source d'érosion ou de dégradation du site.

(2) Seules sont autorisées sur le domaine public maritime et fluvial, à titre d'occupation privative temporaire, les installations légères et démontables à l'exclusion de toute construction en dur ou à usage d'habitation.

ARTICLE 35: Il est délimité le long des côtes maritimes, des berges fluviales et lacustres une zone non aedificandi dont le régime est fixé par la législation domaniale.

SECTION IV DE LA PROTECTION DES SOLS ET DU SOUS-SOL

ARTICLE 36:- (1) Le sol, le sous-sol et les richesses qu'ils contiennent, en tant que ressources limitées, renouvelables ou non, sont protégés contre toutes formes de dégradation et gérées conjointement et de manière rationnelle par les Administrations compétentes.

(2) Un décret d'application de la présente loi, pris sur rapport conjoint des Administrations concernées, fixe:

- les conditions particulières de protection destinées à lutter contre la désertification, l'érosion, les pertes de terres arables et la pollution du sol et de ses ressources par les produits chimiques, les pesticides et les engrais;
- la liste des engrais, des pesticides et autres substances chimiques dont l'utilisation est autorisée ou favorisée dans les travaux agricoles;
- les quantités autorisées et les modalités d'utilisation afin que les substances ne portent pas atteinte à la qualité du sol ou des autres milieux récepteurs.

ARTICLE 37:- (1) Les titulaires de titres miniers ou de titres de carrières sont tenus à l'obligation de remettre en l'état les sites exploités.

(2) Toutefois, les titulaires de titres miniers ou de titres de carrières peuvent choisir de payer le coût financier des opérations de remise en état exécutées par l'Administration compétente.

Le montant et les modalités de paiement des frais y

relatifs sont fixés par un décret d'application de la présente loi.

Les sommes correspondantes sont reversées au Fonds prévu par la présente loi et ne peuvent recevoir aucune autre affectation.

ARTICLE 38:- (1) Sont soumis à l'autorisation préalable de chaque Administrations concernée et après avis obligatoire de l'Administration chargée de l'environnement, l'affectation et l'aménagement des sols à des fins agricoles, industrielles, urbanistiques ou autres, ainsi que les travaux de recherche ou d'exploitation des ressources du sous-sol susceptibles de porter atteinte à l'environnement.

(2) Un décret d'application de la présente loi fixe les conditions de délivrance de l'autorisation prévue au (1) et les activités ou usages qui, en raison des dangers qu'ils présentent pour le sol, le sous-sol ou leurs ressources, doivent être interdits ou soumis à des sujétions particulières.

SECTION V DE LA PROTECTION DES ETABLISSEMENTS HUMAINS

ARTICLE 39:- (1) La protection, la conservation et la valorisation du patrimoine culturel et architectural sont d'intérêt national.

(2) Elles sont parties intégrantes de la politique nationale de protection et de mise en valeur de l'environnement.

ARTICLE 40:- (1) Les plans d'urbanisme et les plans de lotissement publics ou privés prennent en compte les impératifs de protection de l'environnement dans le choix des emplacements prévus pour les zones d'activités économiques, résidentielles et de loisirs. Ces plans doivent, préalablement à leur application, recueillir l'avis obligatoire de l'Administration chargée de l'environnement.

(2) Les agglomérations urbaines doivent comporter des terrains à usage récréatif et des zones d'espace vert, selon une proportion harmonieuse fixée par les documents d'urbanisme et la loi forestière, compte tenu notamment des superficies disponibles, du coefficient d'occupation du sol et de la population résidentielle.

ARTICLE 41:- Les permis de construire sont délivrés en tenant dûment compte de la présence des établissements classés et de leur impact sur l'environnement, et peuvent être refusés ou soumis à des prescriptions spéciales élaborées conjointement par les Administrations chargées de l'environnement et de l'urbanisme, si les constructions envisagées sont de na-

ture à avoir des conséquences dommageables pour l'environnement.

CHAPITRE IV DES INSTALLATIONS CLASSEES DANGEREUSES, INSALUBRES OU INCOM- MODES ET DES ACTIVITES POLLUANTES

SECTION I DES DECHETS

ARTICLE 42:- Les déchets doivent être traités de manière écologiquement rationnelle afin d'éliminer ou de réduire leurs effets nocifs sur la santé de l'homme, les ressources naturelles, la faune et la flore, et sur la qualité de l'environnement en général.

ARTICLE 43:- (1) Toute personne qui produit ou détient des déchets doit en assurer elle-même l'élimination ou le recyclage, ou les faire éliminer ou recycler auprès des installations agréées par l'Administration chargée des établissements classés après avis obligatoire de l'Administration chargée de l'environnement.

Elle est, en outre, tenue d'assurer l'information du public sur les effets sur l'environnement et la santé publique des opérations de production, de détention, d'élimination ou de recyclage des déchets, sous réserve des règles de confidentialité, ainsi que sur les mesures destinées à en prévenir ou à en compenser les effets préjudiciables.

(2) Un décret d'application de la présente loi fixe les conditions dans lesquelles doivent être effectuées les opérations de collecte, de tri, de stockage, de transport, de récupération, de recyclage ou de toute autre forme de traitement, ainsi que l'élimination finale des déchets pour éviter la surproduction de ceux-ci, le gaspillage de déchets récupérables et la pollution de l'environnement en général.

ARTICLE 44:- Sont formellement interdits, compte dûment tenu des engagements internationaux du Cameroun, l'introduction, le déversement, le stockage ou le transit sur le territoire national des déchets produits hors du Cameroun.

ARTICLE 45:- La fabrication, l'importation, la détention en vue de la vente, la mise à la disposition du consommateur de produits ou matériaux générateurs de déchets font l'objet d'une réglementation fixée par arrêtés conjoints des Administrations compétentes, en vue de faciliter l'élimination desdits déchets ou, le cas échéant, d'interdire ces activités.

ARTICLE 46:- (1) Les collectivités territoriales

décentralisées assurent l'élimination des déchets produits par les ménages, éventuellement en liaison avec les services compétents de l'Etat, conformément à la réglementation en vigueur.

- (2) En outre, elles:
- veillent à ce que tous les dépôts sauvages soient enrayés;
 - assurent l'élimination, si nécessaire avec le concours des services compétents de l'Etat ou des entreprises agréées, des dépôts abandonnés, lorsque le propriétaire ou l'auteur du dépôt n'est pas connu ou identifié.

ARTICLE 47:- (1) L'élimination des déchets par la personne qui les produit ou les traite doit être faite sur autorisation et sous la surveillance conjointe des Administrations chargées respectivement de l'environnement et des mines, selon les prescriptions fixées par un décret d'application de la présente loi.

(2) Le dépôt des déchets en décharge doit se faire dans des décharges faisant l'objet de contrôles périodiques et respectant les normes techniques minima d'aménagement des décharges.

(3) Les déchets industriels spéciaux qui, en raison de leurs propriétés, sont dangereux, ne peuvent pas être déposés dans des installations de stockage recevant d'autres catégories de déchets.

ARTICLE 48:- (1) Lorsque les déchets sont abandonnés, déposés ou traités contrairement aux prescriptions de la présente loi et des règlements pris pour son application, l'autorité investie du pouvoir de police doit, après mise en demeure notifiée au producteur, assurer d'office l'élimination desdits déchets aux frais dudit producteur.

(2) L'Administration doit obliger le producteur à consigner entre les mains d'un comptable public, une somme correspondant au montant des travaux à réaliser. Le comptable public compétent est désigné par arrêté du Ministre chargé des finances.

ARTICLE 49:- L'immersion, l'incinération ou l'élimination par quelque procédé que ce soit, des déchets dans les eaux continentales et/ou maritimes sous juridiction camerounaise sont strictement interdites, compte dûment tenu des engagements internationaux du Cameroun.

ARTICLE 50:- (1) L'obligation générale d'entretien à laquelle sont soumis les concessionnaires du domaine public comporte celle d'éliminer, de faire éliminer ou de recycler les déchets qui s'y trouvent.

(2) Est strictement interdit le dépôt des déchets sur le domaine public, y compris le domaine public maritime tel que défini par la législation en vigueur.

ARTICLE 51:- (1) L'enfouissement des déchets dans le sous-sol ne peut être opéré qu'après autorisation conjointe des Administrations compétentes qui fixent les prescriptions techniques et les règles particulières à observer.

(2) L'enfouissement des déchets sans l'autorisation prévue à l'alinéa (1) du présent article donne lieu à un déenfouissement opéré par le responsable de l'enfouissement ou, après mise en demeure de l'Administration compétente, en collaboration avec les autres Administrations concernées.

ARTICLE 52:- (1) Les sites endommagés par les travaux réalisés sans autorisation ou sans respect des prescriptions et les sites contaminés par des décharges sauvages ou des enfouissements non autorisés font l'objet d'une remise en l'état par les responsables ou d'une restauration la plus proche possible de leur état originel.

(2) En cas de mise en demeure de l'Administration compétente restée sans suite pendant un an, la remise en l'état ou la restauration du site est effectuée par celle-ci, en collaboration avec les autres administrations concernées, aux frais de l'auteur du dommage, de la décharge sauvage ou de l'enfouissement.

ARTICLE 53: Le rejet dans l'air, l'eau ou le sol d'un polluant est soumis à une autorisation dont les conditions de délivrance sont fixées par un décret d'application de la présente loi.

SECTION II DES ETABLISSEMENTS CLASSES

ARTICLE 54:- Sont soumises aux dispositions de la législation et de la réglementation en vigueur sur les établissements classés, les usines, ateliers, dépôts, chantiers et, d'une manière générale, les installations industrielles, artisanales ou commerciales exploitées ou détenues par toute personne physique ou morale, publique ou privée, qui présentent ou peuvent présenter soit des dangers pour la santé, la sécurité, la salubrité publique, l'agriculture, la nature et l'environnement en général, soit des inconvénients pour la commodité du voisinage.

ARTICLE 55:- (1) Afin de prévenir et de contrôler les accidents dans les établissements classés, le responsable de l'établissement industriel ou commercial classé est tenu de procéder, avant l'ouverture dudit établissement, à une étude des dangers.

(2) L'étude des dangers prévu à l'alinéa (1) ci-dessus doit comporter les indications suivantes:

- le recensement et la description des dangers suivant leur origine interne ou externe;
- les risques pour l'environnement et le voisinage;
- la justification des techniques et des procédés envisagés pour prévenir les risques, en limiter ou en compenser les effets;
- la conception des installations;
- les consignes d'exploitation;
- les moyens de détection et d'intervention en cas de sinistre.

ARTICLE 56:- (1) L'exploitant de tout établissement de première ou de deuxième classe, tel que défini par la législation sur les établissements classés, est tenu d'établir un plan d'urgence propre à assurer l'alerte des autorités compétentes et des populations avoisinantes en cas de sinistre ou de menace de sinistre, l'évacuation du personnel et les moyens pour circonscrire les causes du sinistre.

SECTION III

DES SUBSTANCES CHIMIQUES NOCIVES ET/OU DANGEREUSES

ARTICLE 57:- (1) Les substances chimiques nocives et/ou dangereuses qui, en raison de leur toxicité, ou de leur concentration dans les chaînes biologiques, présentent ou sont susceptibles de présenter un danger pour la santé humaine, le milieu naturel et l'environnement en général, lorsqu'elles sont produites, importées sur le territoire national ou évacuées dans le milieu, sont soumises au contrôle et à la surveillance des Administrations techniques compétentes, en relation avec l'Administration chargée de l'environnement.

(2) Les substances radioactives sont régies par une loi particulière.

ARTICLE 58:- Un décret d'application de la présente loi, pris sur rapport conjoint des Administrations compétentes, réglemente et fixe:

- les obligations des fabricants et importateurs de substances chimiques destinées à la commercialisation, à la composition des préparations mises sur le marché, le volume à commercialiser;
- la liste des substances dont la production, l'importation, le transit et la circulation sur le

territoire national sont interdits ou soumis à autorisation préalable des Administrations chargées du contrôle et de la surveillance des substances chimiques, nocives et dangereuses;

- les conditions, le mode, l'itinéraire et le calendrier de transport, de même que toutes prescriptions relatives au conditionnement et à la commercialisation des substances sus-visées;
- les conditions de délivrance de l'autorisation préalable;
- la liste des substances dont la production, l'importation, le transit et la circulation sur le territoire national sont autorisés.

ARTICLE 59:- (1) Les substances chimiques, nocives et dangereuses fabriquées, importées ou mises en vente en infraction aux dispositions de la présente loi sont saisies par les agents habilités en matière de répression des fraudes, ou ceux assermentés des administrations compétentes.

(2) Lorsque les substances visées au (1) présentent un danger réel et imminent, elles doivent être détruites ou neutralisées dans les meilleurs délais par les soins des Administrations visées à l'alinéa (1) ci-dessus, aux frais de l'auteur de l'infraction.

SECTION IV

DES NUISANCES SONORES ET OLFACTIVES

ARTICLE 60:- (1) Sont interdites les émissions de bruits et d'odeurs susceptibles de nuire à la santé de l'homme, de constituer une gêne excessive pour le voisinage ou de porter atteinte à l'environnement.

(2) Les personnes à l'origine de ces émissions doivent prendre toutes les dispositions nécessaires pour les supprimer, les prévenir ou en limiter la propagation sans nécessité ou par manque de précaution.

(3) Lorsque l'urgence le justifie, les communes doivent prendre toutes mesures exécutoires destinées, d'office, à faire cesser le trouble. En cas de nécessité, elles peuvent requérir le concours de la force publique.

ARTICLE 61:- Un décret d'application de la présente loi, pris sur rapport conjoint des Administrations compétentes détermine:

- les cas et les conditions dans lesquelles sont interdits ou réglementés les bruits causés sans nécessité absolue ou dus à un défaut de précaution;
- les conditions dans lesquelles les immeubles, les

établissements industriels, commerciaux, artisanaux ou agricoles, les véhicules ou autres objets mobiliers possédés, exploités ou détenus par toute personne physique ou morale, doivent être exploités, construits ou utilisés de manière à satisfaire aux dispositions de la présente loi et de ses textes d'application;

- les conditions dans lesquelles toutes mesures exécutoires doivent être prises par les communes et destinées, d'office, à faire cesser le trouble, sans préjudice des condamnations pénales éventuelles;
- les délais dans lesquels il doit être satisfait aux dispositions de la présente loi à la date de publication de chaque règlement pris pour son application.

CHAPITRE V

DE LA GESTION DES RESSOURCES NATURELLES ET DE LA CONSERVATION DE LA DIVERSITE BIOLOGIQUE

ARTICLE 62:- La protection de la nature, la préservation des espèces animales et végétales et de leurs habitats, le maintien des équilibres biologiques et des écosystèmes, et la conservation de la diversité biologique contre toutes les causes de dégradation et les menaces d'extinction sont d'intérêt national. Il est du devoir des pouvoirs publics et de chaque citoyen de veiller à la sauvegarde du patrimoine naturel.

ARTICLE 63:- Les ressources naturelles doivent être gérées rationnellement de façon à satisfaire les besoins des générations actuelles sans compromettre la satisfaction de ceux des générations futures.

ARTICLE 64:- (1) L'utilisation durable de la diversité biologique du Cameroun se fait notamment à travers:

- un inventaire des espèces existantes, en particulier celles menacées d'extinction;
- des plans de gestion des espèces et de préservation de leur habitat;
- un système de contrôle d'accès aux ressources génétiques.

(2) La conservation de la diversité biologique à travers la protection de la faune et de la flore, la création et la gestion des réserves naturelles et des parcs nationaux sont régies par la législation et la réglementation en vigueur.

(3) L'Etat peut ériger toute partie du territoire national en une aire écologiquement protégée. Une telle aire fait l'objet d'un plan de gestion environnemental.

ARTICLE 65:- (1) L'exploration scientifique et l'exploitation des ressources biologiques et génétiques du Cameroun doivent être faites dans des conditions de transparence et de collaboration étroite avec les institutions nationales de recherche, les communautés locales et de manière profitable au Cameroun, dans les conditions prévues par les conventions internationales en la matière dûment ratifiées par le Cameroun, notamment la Convention de Rio de 1992 sur la diversité biologique.

(2) Un décret d'application de la présente loi fixe les modalités de collaboration entre chercheurs étrangers et institutions de recherche camerounaises ainsi que les communautés locales.

ARTICLE 66:- Un décret d'application de la présente loi détermine les sites historiques, archéologiques et scientifiques, ainsi que les sites constituant une beauté panoramique particulière et organise leur protection et les conditions de leur gestion.

ARTICLE 67:- (1) L'exploration et l'exploitation des ressources minières et des carrières doivent se faire d'une façon écologiquement rationnelle prenant en compte les considérations environnementales.

(2) Elles se font conformément aux dispositions de la législation en vigueur.

ARTICLE 68:- (1) La protection des terres contre l'érosion, la prévention et la lutte contre la désertification sont d'utilité publique. Elles s'opèrent notamment à travers la planification de l'utilisation des terres et le zonage, le reboisement et la reforestation, ainsi que la diffusion des méthodes écologiquement efficaces d'utilisation des terres.

(2) Elles se font conformément à la législation en vigueur et aux textes d'application de la présente loi, ainsi qu'aux conventions internationales pertinentes dûment ratifiées par le Cameroun.

ARTICLE 69:- (1) La gestion des ressources partagées avec d'autres Etats doit se faire de façon durable et, autant que possible, en coopération avec les Etats concernés.

(2) Cette coopération se fait en vertu des conventions internationales conclues entre les Etats partageant ces ressources.

CHAPITRE VI

DES RISQUES ET DES CATASTROPHES NATURELS

ARTICLE 70:- Il est établi à l'initiative de chaque Administration compétente, de concert avec les autres Administrations concernées, et sous la coordination de

l'Administration chargée de l'environnement, une carte nationale et des plans de surveillance des zones à haut risque de catastrophes naturelles, notamment les zones à activité sismique et/ou volcanique, les zones inondables, les zones à risque d'éboulement, les zones à risque de pollution marine et atmosphérique, les zones de sécheresse et de désertification, ainsi que les zones d'éruption magmato-phréatique.

ARTICLE 71:- La prévention des risques obéit aux principes de la présente loi ainsi qu'aux dispositions pertinentes prévues par des textes spécifiques en vigueur.

TITRE IV

DE LA MISE EN OEUVRE ET DU SUIVI DES PROGRAMMES

CHAPITRE UNIQUE DE LA PARTICIPATION DES POPULATIONS

ARTICLE 72:- La participation des populations à la gestion de l'environnement doit être encouragée, notamment à travers:

- le libre accès à l'information environnementale, sous réserve de impératifs de la défense nationale et de la sécurité de l'Etat.
- des mécanismes consultatifs permettant de recueillir l'opinion et l'apport des populations;
- la représentation des populations au sein des organes consultatifs en matière d'environnement;
- la sensibilisation, la formation, la recherche et l'éducation environnementales.

ARTICLE 73:- L'enseignement de l'environnement doit être introduit dans les programmes d'enseignement des cycles primaire et secondaire, ainsi que des établissements d'enseignement supérieur.

ARTICLE 74:- Afin de renforcer la prise de conscience environnementale dans la société ainsi que la sensibilisation et la participation des populations aux questions environnementales, les Administrations chargées de l'environnement, de la communication et les autres Administrations et organismes publics concernés organisent des campagnes d'information et de sensibilisation à travers les médias et tous autres moyens de communication.

A cet égard, ils mettent à contribution les moyens traditionnels de communication ainsi que les autorités traditionnelles et les associations oeuvrant dans le domaine de l'environnement et du développement.

TITRE V

DES MESURES INCITATIVES

ARTICLE 75:- Toute opération contribuant à enrayer l'érosion, à combattre efficacement la désertification, ou toute opération de boisement ou de reboisement, toute opération contribuant à promouvoir l'utilisation rationnelle des ressources renouvelables, notamment dans les zones de savane et la partie septentrionale du pays bénéficie d'un appui du Fonds prévu par la présente loi.

ARTICLE 76:- (1) Les entreprises industrielles qui importent des équipements leur permettant d'éliminer dans leur processus de fabrication ou dans leurs produits les gaz à effet de serre notamment le gaz carbonique, le chlorofluorocarbène, ou de réduire toute forme de pollution bénéficient d'une réduction du tarif douanier sur ces équipements dans les proportions et une durée déterminées, en tant que de besoin, par la loi de Finances.

(2) Les personnes physiques ou morales qui entreprennent des actions de promotion de l'environnement bénéficient d'une déduction sur le bénéfice imposable suivant des modalités fixées par la loi de Finances.

TITRE VI

DE LA RESPONSABILITE ET DES SANCTIONS

CHAPITRE I DE LA RESPONSABILITE

ARTICLE 77:- (1) Sans préjudice des peines applicables sur le plan de la responsabilité pénale, est responsable civilement, sans qu'il soit besoin de prouver une faute, toute personne qui, transportant ou utilisant des hydrocarbures ou des substances chimiques, nocives et dangereuses, ou exploitant un établissement classé, a

causé un dommage corporel ou matériel se rattachant directement ou indirectement à l'exercice des activités sus-mentionnées.

(2) La réparation du préjudice visé à l'alinéa (1) du présent article est partagée lorsque l'auteur du préjudice prouve que le préjudice corporel ou matériel résulte de la faute de la victime. Elle est exonérée en cas de force majeure.

ARTICLE 78:- Lorsque les éléments constitutifs de l'infraction proviennent d'un établissement industriel, commercial, artisanal ou agricole, le propriétaire, l'exploitant, le directeur ou, selon le cas, le gérant peut être déclaré responsable du paiement des amendes et frais de justice dus par les auteurs de l'infraction, et civilement responsable de la remise en l'état des sites.

CHAPITRE II DES SANCTIONS PENALES

ARTICLE 79:- Est punie d'une amende de deux millions (2,000,000) à cinq millions (5,000,000) de FCFA et d'une peine d'emprisonnement de six (6) mois à deux (2) ans ou de l'une de ces deux peines seulement, toute personne ayant:

- réalisé, sans étude d'impact, un projet nécessitant une étude d'impact;
- réalisé un projet non conforme aux critères, normes et mesures énoncés pour l'étude d'impact;
- empêché l'accomplissement des contrôles et analyses prévus par la présente loi et/ou par ses textes d'application.

ARTICLE 80:- Est punie d'une amende de cinquante millions (50,000,000) à cinq cent millions (500,000,000) de FCFA et d'une peine d'emprisonnement à perpétuité, toute personne qui introduit des déchets toxiques et/ou dangereux sur le territoire camerounais.

ARTICLE 81:- (1) Est punie d'une amende de dix (10) à cinquante (50) millions de FCFA et d'une peine d'emprisonnement de deux (2) à cinq (5) ans ou de l'une de ces deux peines seulement, toute personne qui importe, produit, détient et/ou utilise contrairement à la réglementation, des substances nocives ou dangereuses.

(2) En cas de récidive, le montant maximal des peines est doublé.

ARTICLE 82:- (1) Est punie d'une amende de un million (1,000,000) à cinq (5) millions (5,000,000) de FCFA et d'une peine d'emprisonnement de six (6) mois à un (1) an ou de l'une de ces deux peines seulement, toute

personne qui pollue, dégrade les sols et sous-sols, altère la qualité de l'air ou des eaux, en infraction aux dispositions de la présente loi.

(2) En cas de récidive, le montant maximal des peines est doublé.

ARTICLE 83:- (1) Est puni d'une amende de dix millions (10,000,000) à cinquante millions (50,000,000) de FCFA et d'une peine d'emprisonnement de six (6) mois à un (1) an ou de l'une de ces deux peines seulement, tout capitaine de navire qui se rend coupable d'un rejet dans les eaux maritimes sous juridiction camerounaise d'hydrocarbures ou d'autres substances liquides nocives pour le milieu marin, en infraction aux dispositions de la présente loi et de ses textes d'application ou des conventions internationales relatives à la prévention de la pollution marine auxquelles le Cameroun est partie.

(2) Lorsque le navire en infraction est un navire autre qu'un navire-citerne et de jauge brute inférieure à quatre cents (400) tonnes, les peines prévues à l'alinéa précédent du présent article sont réduites, sans que le minimum de l'amende puisse être inférieur à un million (1,000,000) de FCFA.

(3) En cas de récidive, le montant maximal des peines est doublé.

(4) Les pénalités prévues par le présent article s'appliquent sans préjudice du droit à l'indemnisation des collectivités publiques ou privées ainsi que des personnes ayant subi des dommages du fait de la pollution.

(5) Les pénalités prévues par le présent article ne s'appliquent pas aux rejets effectués par un navire pour assurer sa propre sécurité ou celle d'autres navires, ou pour sauver des vies humaines, ni aux déversements résultant des dommages subis par le navire sans qu'aucune faute ne puisse être établie à l'encontre de son capitaine ou de son équipage.

ARTICLE 84:- (1) Est punie d'une amende de cinq cent mille (500,000) à deux millions (2,000,000) de FCFA et d'une peine d'emprisonnement de six (6) mois à un (1) an ou de l'une de ces deux peines seulement, toute personne qui fait fonctionner une installation ou utilise un objet mobilier en infraction aux dispositions de la présente loi.

(2) En cas de récidive, le montant maximal des peines est doublé.

ARTICLE 85:- Les sanctions prévues par la présente loi sont complétées par celles contenues dans le Code pénal ainsi que dans différentes législations particulières applicables à la protection de l'environnement.

ARTICLE 86:- La sanction est doublée lorsque les infractions sus-citées sont commises par un agent relevant des Administrations chargées de la gestion de l'environnement, ou avec sa complicité.

ARTICLE 87:- Les dispositions des articles 54 et 90 du Code Pénal relatives au sursis et aux circonstances atténuantes ne sont pas applicables aux sanctions prévues par la présente loi.

CHAPITRE III

DE LA CONSTATATION DES INFRACTIONS

ARTICLE 88:- (1) Sans préjudice des prérogatives reconnues au ministère public, aux officiers de police judiciaire à compétence générale, les agents assermentés de l'Administration chargée de l'environnement ou des autres Administrations concernées, notamment ceux des domaines, du cadastre, de l'urbanisme, des travaux publics, des forêts, de la marine marchande, des mines, de l'industrie, du travail et du tourisme sont chargés de la recherche, de la constatation et des poursuites en répression des infractions aux dispositions de la présente loi et de ses textes d'application.

(2) Les agents mentionnés à l'alinéa (1) ci-dessus prêtent serment devant le tribunal compétent, à la requête de l'Administration intéressée, suivant des modalités fixées par un décret d'application de la présente loi.

(3) Dans l'exercice de leurs fonctions, les agents assermentés sont tenus de se munir de leur carte professionnelle.

ARTICLE 89:- Toute infraction constatée fait l'objet d'un procès-verbal régulier. La recherche et la constatation des infractions sont effectuées par deux (2) agents qui consignent le procès-verbal. Ce procès-verbal fait foi jusqu'à l'inscription en faux.

ARTICLE 90:- (1) Tout procès-verbal de constatation d'infraction doit être transmis immédiatement à l'Administration compétente qui le fait notifier au contrevenant. Celui-ci dispose d'un délai de vingt (20) jours à compter de cette notification pour contester le procès-verbal. Passé ce délai, toute constatation devient irrecevable.

(2) En cas de contestation dans les délais prévus à l'alinéa (1) du présent article, la réclamation est examinée par l'Administration compétente.

Si la contestation est fondée, le procès-verbal est classé sans suite.

Dans le cas contraire, et à défaut de transaction ou d'arbitrage définitifs, l'Administration compétente

procède à des poursuites judiciaires conformément à la législation en vigueur.

CHAPITRE IV

DE LA TRANSACTION ET DE L'ARBITRAGE

ARTICLE 91:- (1) Les Administrations chargées de la gestion de l'environnement ont plein pouvoir pour transiger. Elles doivent, pour ce faire, être dûment saisies par l'auteur de l'infraction.

(2) Le montant de la transaction est fixée en concertation avec l'Administration chargée des finances. Ce montant ne peut être inférieur au minimum de l'amende pénale correspondante.

(3) La procédure de transaction doit être antérieure à toute procédure judiciaire éventuelle, sous peine de nullité.

(4) Le produit de la transaction est intégralement versé au Fonds prévu par la présente loi.

ARTICLE 92:- Les parties à un différend relatif à l'environnement peuvent le régler d'un commun accord par voie d'arbitrage.

ARTICLE 93:- (1) Les autorités traditionnelles ont compétence pour régler des litiges liés à l'utilisation de certaines ressources naturelles, notamment l'eau et le pâturage sur la base des us et coutumes locaux, sans préjudice du droit des parties au litige d'en saisir les tribunaux compétents.

(2) Il est dressé un procès-verbal du règlement du litige. La copie de ce procès-verbal dûment signé par l'autorité traditionnelle et les parties au litige ou leurs représentants est déposée auprès de l'autorité administrative dans le ressort territorial de laquelle est située la communauté villageoise où a eu lieu le litige.

TITRE VIII

DES DISPOSITIONS DIVERSES ET FINALES

ARTICLE 94:- Les écosystèmes de mangroves font l'objet d'une protection particulière qui tient compte de leur rôle et de leur importance dans la conservation de la diversité biologique marine et le maintien des équilibres écologiques côtiers.

ARTICLE 95:- L'Etat assure la conservation "in situ"

et "ex situ" des ressources génétiques suivant des modalités fixées par des lois particulières.

ARTICLE 96:- (1) Toute décision prise ou autorisation donnée au titre de la présente loi sans l'avis préalable de l'Administration chargée de l'environnement requis par ladite loi, est nulle et de nul effet.

(2) Toute personne ayant intérêt à agir peut en invoquer la nullité.

(3) Des décrets d'application de la présente loi fixent, suivant le cas, les modalités suivant lesquelles est donné l'avis préalable de l'Administration chargée de l'environnement.

ARTICLE 97:- Des décrets d'application de la présente loi en précisent, en tant que de besoin, les modalités.

ARTICLE 98:- (1) La présente loi s'applique sans préjudice des dispositions non contraires des lois particulières en vigueur en matière de gestion de l'environnement.

(2) Toutefois, sont abrogées les dispositions de l'article 4 (1) premier tiret de la loi No. 89/27 du 29 décembre 1989 portant sur les déchets toxiques et dangereux.

ARTICLE 99:- La présente loi sera enregistrée, publiée suivant la procédure d'urgence, puis insérée au Journal Officiel en français et en anglais.

YAOUNDE, LE 5 AOUT 1996

LE PRESIDENT DE LA REPUBLIQUE

PAUL BIYA

COTE D'IVOIRE

Loi-Cadre No. 96/766 du 3 Octobre 1996 Portant Code de l'Environnement

L'Assemblée Nationale a délibéré et adopté,

Le Président de la République promulgue la Loi dont la teneur suit:

TITRE I

DEFINITIONS, OBJECTIFS ET DOMAINE D'APPLICATION

CHAPITRE I DEFINITIONS

Article 1er: Aux termes de la présente loi:

L'environnement est l'ensemble des éléments physiques, chimiques, biologiques et des facteurs socioéconomiques, moraux et intellectuels susceptibles d'avoir un effet direct ou indirect, immédiat ou à terme sur le développement du milieu, des êtres vivants et des activités humaines.

L'environnement humain concerne l'aménagement du territoire et du cadre de vie

L'environnement naturel comprend:

- le sol et le sous-sol,
- les ressources en eau,
- l'air,
- la diversité biologique,
- les paysages, sites et monuments...

Les ressources en eau comprennent les eaux intérieures de surface et les eaux souterraines.

L'air est la couche atmosphérique dont la modification physique, chimique ou autre peut porter atteinte à la santé des êtres vivants, aux écosystèmes et à l'environnement en général.

Le paysage est une portion du territoire dont les divers éléments forment un ensemble pittoresque par la disposition de ses composants ou les contours de ses formes ou l'effet de ses couleurs.

Le site est une portion de paysage particularisée par sa situation géographique et/ou son histoire.

Le monument naturel est un élément ou un groupe d'éléments dus à la nature tels que rochers, arbres, sources, bouleversements du sol, accidents géologiques ou autres qui, séparément ou ensemble, forment un panorama digne d'attention.

L'écosystème est un ensemble structuré qui englobe en use seule et même unité fonctionnelle le biotope et la biocénose.

Un biotope est l'aire géographique où l'ensemble des facteurs physiques et chimiques de l'environnement reste sensiblement constant.

L'écologie est l'étude des milieux où vivent, se reproduisent et meurent les êtres vivants ainsi que des rapports de ces êtres avec le milieu et leur protection contre toute pollution.

La diversité biologique est la variabilité des organismes vivants de toute origine y compris, entre autres, les écosystèmes terrestres, marins et autres écosystèmes aquatiques et les complexes écologiques dont il fait partie; cela comprend la diversité au sein des espèces et entre espèces ainsi que celle des écosystèmes.

La pollution est la contamination ou la modification

directe ou indirecte de l'environnement provoquée par tout acte susceptible:

- d'altérer le milieu de vie de l'homme et des autres espèces vivants;
- de nuire à la santé, à la sécurité, au bien-être de l'homme, de la flore et de la faune ou aux biens collectifs et individuels.

La pollution des eaux est l'introduction dans le milieu aquatique de toute substance susceptible de modifier les caractéristiques physiques, chimiques et/ou biologiques de l'eau et de créer des risques pour la santé de l'homme, de nuire à la faune et à la flore terrestres et aquatiques, de porter atteinte à l'agrément des sites ou de gêner toute autre utilisation normale des eaux.

La pollution atmosphérique ou pollution de l'air est l'émission volontaire ou accidentelle dans la couche atmosphérique de gaz, de fumée, ou de substances de nature à créer des nuisances pour les êtres vivants, à compromettre leur santé ou la sécurité publique ou à nuire à la production agricole, à la conservation des édifices ou au caractère des sites et paysages.

La pollution transfrontière est la pollution qui a son origine dans un pays et dont les effets se propagent dans d'autres pays.

Les aires protégées sont les zones spécialement consacrées à la préservation de la diversité biologique et des ressources naturelles qui y sont associées.

Les zones maritimes comprennent: les eaux archipélagiques, la mer territoriale, la zone économique exclusive, le plateau continental ainsi que le rivage de la mer, les fonds marins et le sous-sol correspondant.

L'établissement humain comprend l'ensemble des agglomérations urbaines et rurales, des infrastructures et équipements dont elles doivent disposer pour assurer à leurs habitants un cadre de vie agréable et une existence saine, harmonieuse et équilibrée.

Les hydrocarbures sont des substances énergétiques, fluides (liquides ou gazeuses).

La nuisance est toute atteinte à la santé des êtres vivants, de leur fait, par l'émission de bruits, d'odeurs etc...

Les déchets sont des produits solides, liquides ou gazeux, résultant des activités des ménages ou d'un processus de fabrication ou tout bien meuble ou immeuble abandonné ou qui menace ruine.

Les déchets dangereux sont des produits solides, liquides ou gazeux, qui présentent une menace sérieuse

ou des risques particuliers, pour la santé, la sécurité des êtres vivants et la qualité de l'environnement.

Les matières fertilisantes sont les engrais, les amendements et tout produit dont l'emploi, contribue à améliorer la productivité agricole.

Les risques naturels sont les catastrophes et calamités naturelles qui peuvent avoir des effets imprévisibles sur l'environnement et la santé.

L'accident majeur est défini comme un événement tel qu'une émission de substances dangereuses, un incendie, une explosion résultant d'un développement incontrôlé d'une activité industrielle, agricole ou domestique.

Les plans d'urgence se définissent comme l'organisation rapide et rationnelle, sous la responsabilité d'une autorité déterminée, des moyens de toute nature pour faire face à une situation d'une extrême gravité.

Les feux de brousse sont des feux allumés volontairement ou non, quelle qu'en soit l'ampleur, causant des dommages à l'homme et à ses biens, à la flore et à la faune.

La désertification désigne la dégradation des terres dans les zones arides, semi-arides et subhumides sèches par suite de divers facteurs, parmi lesquels les variations climatiques et les activités humaines.

La pêche consiste en la capture, l'extraction ou la récolte de poissons, cétagés, chéloniens végétaux, planctons ou d'animaux vertébrés ou invertébrés vivant partiellement ou complètement dans le milieu aquatique.

La chasse consiste en tout acte tendant à:

- blesser ou tuer pour s'approprié ou non de tout ou partie de sa dépouille, un animal en liberté dans son milieu naturel au sens des textes législatifs et réglementaires et vigueur;
- détruire les oeufs des oiseaux et des reptiles.

La capture consiste en tout acte tendant à:

- priver de sa liberté, un animal sauvage;
- récolter et retirer hors de leur lieu naturel d'éclosion, les oeufs des oiseaux ou des reptiles.

L'étude d'impact l'environnemental est un rapport d'évaluation de l'impact probable d'une activité envisagée sur l'environnement.

Le Bureau d'Etudes d'Impact Environnemental est un service à la disposition de l'Autorité Nationale Compétente chargé d'examiner les études d'impact.

L'**audit environnemental** est une procédure d'évaluation et de contrôle des actions de protection de l'environnement.

L'**Autorité Nationale Compétente** peut-être une entité unique ou un groupement d'entités dont les compétences sont définies par décret.

Association de défense de l'environnement est la convention par laquelle deux ou plusieurs personnes mettent en commun leurs connaissances ou leurs activités dans un but autre que de partager des bénéfices en vue de concourir à la défense de l'environnement.

CHAPITRE II OBJECTIFS

Article 2: Le présent code vise à:

- protéger les sols, sous-sols, sites, paysages et monuments nationaux, les formations végétales, la faune et la flore et particulièrement les domaines classés, les parcs nationaux et réserves existantes;
- établir les principes fondamentaux destinés à gérer, à protéger l'environnement contre toutes les formes de dégradation afin de valoriser les ressources naturelles, de lutter contre toutes sortes de pollution et nuisances;
- améliorer les conditions de vie des différents types de population dans le respect de l'équilibre avec le milieu ambiant;
- créer les conditions d'une utilisation rationnelle et durable des ressources naturelles pour les générations présentes et futures;
- garantir à tous les citoyens, un cadre de vie écologiquement sain et équilibré;
- veiller à la restauration des milieux endommagés.

CHAPITRE III DOMAINE D'APPLICATION

Article 3: La présente loi ne fait pas obstacle à l'application des dispositions législatives et réglementaires concernant l'urbanisme et les constructions, la santé, l'hygiène, la sécurité et la tranquillité publique, la protection des écosystèmes et d'une manière générale à l'exercice des pouvoirs de police.

Article 4: La présente loi ne s'applique pas aux activités militaires et aux situations de guerre. Cette exclusion ne

dispense pas les auteurs de telles activités de prendre en compte les préoccupations de protection de l'environnement.

Article 5: La présente loi s'applique à toutes les formes de pollution telles que définies à l'article 1er du présent code et susceptibles de provoquer une altération de la composition et de la consistance de la couche atmosphérique avec des conséquences dommageables pour la santé des êtres vivants, la production, les biens et l'équilibre des écosystèmes.

Article 6: Sont soumis aux dispositions de la présente loi;

- les installations classées telles que définies dans leur nomenclature;
- les usines, dépôts, mines, chantiers, carrières, stockages souterrains ou en surface, magasins et ateliers;
- les installations exploitées ou détenues par toute personne physique ou morale, publique ou privée qui peuvent présenter des dangers ou des inconvénients, soit pour la commodité, soit pour la santé, la sécurité et la salubrité publique.
- les déversements, écoulements, rejets et dépôts susceptibles de provoquer ou d'accroître la dégradation du milieu récepteur.

Article 7: Sont visés, aux termes de la présente loi, les différents types d'énergie suivants:

- l'énergie solaire;
- l'énergie de biomasse;
- l'énergie éolienne;
- l'énergie géothermique;
- l'énergie hydroélectrique;
- l'énergie thermique;
- l'énergie nucléaire.

Article 8: Aux termes de la présente loi, sont visées les substances ou combinaisons de substances fabriquées ou à l'état naturel susceptibles, en raison de leur caractère toxique, radioactif, corrosif ou nocif de constituer un danger pour la santé des personnes, la conservation des sols et sous-sol, des eaux, de la faune et de la flore, de l'environnement en général, lorsqu'elles sont utilisées ou évacuées dans le milieu naturel.

Article 9: Est visée par la présente loi, l'utilisation de techniques publicitaires agressives telles que les affiches et les graffitis.

Nul ne peut faire de la publicité sur un immeuble sans l'autorisation du propriétaire ou des autorités compétentes dans les conditions fixées par décret.

TITRE II

L'ENVIRONNEMENT

CHAPITRE I L'ENVIRONNEMENT NATUREL

SECTION I LE SOL ET LE SOUS-SOL

Article 10: Le sol et le sous-sol constituent des ressources naturelles à préserver de toutes formes de dégradation et dont il importe de promouvoir l'utilisation durable.

A ce titre, l'usage du sol et du sous-sol doit être fait en respectant les intérêts collectifs attachés à leur préservation.

Article 11: Les sols doivent être affectés à des usages conformes à leur vocation. L'utilisation d'espace pour des usages non réversibles doit être limitée et la plus rationnelle possible.

Article 12: Tout projet d'aménagement et d'exploitation du sol à des fins agricoles, industrielles ou urbaines, tout projet de recherche ou d'exploitation des matières premières du sous-sol sont soumis à autorisation préalable dans les conditions fixées par décret.

SECTION II LES RESSOURCES EN EAU ET LES EAUX MARITIMES

Article 13: Les points de prélèvement de l'eau destinée à la consommation humaine, doivent être entourés d'un périmètre de protection prévu à l'article 49 du présent code.

Toute activité susceptible de nuire à la qualité des eaux est interdite ou peut être réglementée à l'intérieur des périmètres de protection.

Article 14: La gestion de l'eau peut être concédée.

Le concessionnaire est responsable de la qualité de l'eau distribuée conformément aux normes en vigueur.

Article 15: Les occupants d'un bassin versant et/ou les utilisateurs de l'eau peuvent se constituer en association pour la protection du milieu.

SECTION III: LA DIVERSITÉ BIOLOGIQUE

Article 16: L'introduction, l'importation et l'exportation de toute espèce animale ou végétale sont soumises à autorisation préalable dans les conditions fixées par décret.

Article 17: En dehors de la chasse traditionnelle ou des cas prévus par les articles 99 et 103 du Code Pénal relatifs à la légitime défense et à l'état de nécessité, toutes formes de chasse sont soumises à l'obtention d'un permis de chasse.

Article 18: La vente, l'échange, la commercialisation de la viande de chasse sont réglementés.

SECTION IV POLLUTION ATMOSPHÉRIQUE

Article 19: Les immeubles, les installations classées, les véhicules et engins à moteur, les activités commerciales, artisanales ou agricoles, détenus par toute personne physique ou morale doivent être conçus et exploités conformément aux normes techniques fixées par l'Autorité Nationale Compétente en matière de préservation de l'atmosphère.

Article 20: Toutes les activités, susceptibles de polluer l'atmosphère sont réglementées par décret.

Les incinérations non contrôlées et non réglementées de déchets ou tout autre objet (pneus, plastiques etc...) sont interdites.

Article 21: Les substances contribuant à la pollution de l'atmosphère, à l'appauvrissement de la couche d'ozone et au renforcement de l'effet de serre sont réglementées par décret.

CHAPITRE II L'ENVIRONNEMENT HUMAIN

Article 22: Les plans d'aménagement du territoire, les schémas directeurs, les plans d'urbanisme et autres docu-

ments d'urbanisme doivent prendre en compte les impératifs de protection de l'environnement dans le choix, l'emplacement et la réalisation des zones d'activités économique, industrielle, de résidence et de loisirs.

Article 23: L'autorité compétente, aux termes des règlements en vigueur, peut refuser le permis de construire si les constructions sont de nature à porter atteinte au caractère ou à l'intégrité des lieux avoisinants.

Article 24: Aucun travail public ou privé dans le périmètre auquel s'applique un plan ne peut être réalisé que s'il n'est compatible avec ce dernier, et s'il ne prend en considération les dispositions d'ordre environnemental, prévues par les textes en vigueur.

Article 25: Les travaux de construction d'ouvrages publics tels que routes, barrages, peuvent être soumis à une étude d'impact environnemental.

Article 26: Les caractéristiques des eaux résiduaires rejetées doivent permettre aux milieux récepteurs de satisfaire aux objectifs qui leur sont assignés. Le déversement des eaux résiduaires dans le réseau d'assainissement public ne doit nuire ni à la conservation des ouvrages ni à la gestion de ces réseaux.

Article 27: Tout les déchets, notamment les déchets, notamment les déchets hospitaliers et dangereux, doivent être collectés, traités et éliminés de manière écologiquement rationnelle afin de prévenir, supprimer ou réduire leurs effets nocifs sur la santé de l'homme, sur les ressources naturelles, sur la faune et la flore et sur la qualité de l'Environnement.

Article 28: L'enfouissement dans le sol et le sous-sol de déchets non toxiques ne peut être opéré qu'après autorisation et sous réserve du respect des prescriptions techniques et règles particulières définies par décret.

Article 29: L'élimination des déchets doit respecter les normes en vigueur et être conçue de manière à faciliter leur valorisation.

A cette fin, il est fait obligation aux structures concernées de:

- développer et divulguer la connaissance des techniques appropriées;
- conclure des contrats organisant la réutilisation des déchets;
- réglementer les modes de fabrication.

Article 30: Tous les engins doivent être munis d'un avertisseur sonore conforme à un type homologué par

les services compétents et ne doivent pas émettre de bruit susceptible de causer une gêne aux usagers de la route et aux riverains.

Article 31: L'usage des avertisseurs sonores est interdit dans les agglomérations à l'exception des véhicules autorisés dans le cadre de leur service.

En agglomération, il n'est autorisé qu'en cas de besoin absolu pour donner des avertissements nécessaires aux autres usagers de la route.

Article 32: Lorsque l'urgence le justifie, l'autorité compétente peut prendre toutes mesures appropriées pour faire cesser immédiatement toute émission de bruits susceptibles de nuire à la santé des êtres vivants, de constituer une gêne excessive et insupportable pour le voisinage ou d'endommager les biens.

Article 33: Les feux précoces ou les feux allumés en vue du renouvellement des pâturages, de débroussaillage des terrains de culture ou dans le cadre de l'aménagement des zones pastorales, forestières ou sylvicoles, des parcs nationaux et des réserves fauniques font l'objet de réglementation de la part de l'autorité administrative compétente.

Article 34: Toutes les formes de pêche relèvent de l'Autorité Nationale Compétente:

- la pêche artisanale doit être exercée dans le respect de la réglementation en tenant compte d'une bonne gestion de l'environnement;
- la pêche industrielle requiert pour son exercice, l'obtention d'une licence délivrée par l'autorité administrative compétente.

TITRE III

DISPOSITIONS GENERALES ET OBLIGATIONS DE L'ETAT ET DES COLLECTIVITES LOCALES

CHAPITRE I DISPOSITIONS GENERALES

Article 35: La politique nationale de protection de l'environnement incombe à l'Etat.

Toute personne a le droit fondamental de vivre dans un environnement sain et équilibré. Il a aussi le devoir de

contribuer individuellement ou collectivement à la sauvegarde du patrimoine naturel.

A cette fin, lorsqu'un tribunal statue sur une demande, il prend notamment en considération, l'état des connaissances scientifiques, les solutions adoptées par les autres pays et les dispositions des instruments internationaux.

Article 36: Lors de la planification et de l'exécution d'actes pouvant avoir un impact important sur l'environnement, les autorités publiques et les particuliers se conforment aux principes suivants:

- **Principe de précaution**

Lors de la planification ou de l'exécution de toute action, des mesures préliminaires sont prises de manière à éviter ou à réduire tout risque ou tout danger pour l'environnement.

Toute personne dont les activités sont susceptibles d'avoir un impact important sur l'environnement doit, avant d'agir, prendre en considération les intérêts d'autrui ainsi que la nécessité de protéger l'environnement.

Si, à la lumière de l'expérience ou des connaissances scientifiques, une action est jugée susceptible de causer un risque ou un danger pour l'environnement, cette action n'est entreprise qu'après une évaluation préalable indiquant qu'elle n'aura pas d'impact préjudiciable à l'environnement.

- **Substitution**

Si, à une action susceptible d'avoir un impact préjudiciable à l'environnement, peut être substituée une autre action qui présente un risque ou un danger moindre, cette dernière action est choisie même si elle entraîne des coûts plus élevés en rapport avec les valeurs à protéger.

- **Préservation de la diversité biologique**

Toute action doit éviter d'avoir un effet préjudiciable notable sur la diversité biologique.

- **Non-dégradation des ressources naturelles**

Pour réaliser un développement durable, il y a lieu d'éviter de porter atteinte aux ressources naturelles tels que l'eau, l'air et les sols qui, en tout état de cause, font partie intégrante du processus de développement et ne doivent pas être prises en considération isolément. Les effets irréversibles sur les terres doivent être évités dans toute la mesure du possible.

- **Principe "Pollueur-Payeur"**

Toute personne physique ou morale dont les comportements et les activités causent ou sont susceptibles de causer des dommages à l'environnement est soumise à une taxe et/ou à une redevance. Elle assume, en outre, toutes les mesures de remise en état.

- **Information et participation**

Toute personne a le droit d'être informée de l'état de l'environnement et de participer aux procédures préalables à la prise de décisions susceptibles d'avoir des effets préjudiciables à l'environnement.

- **Coopération**

Les autorités publiques, les institutions internationales, les associations et les particuliers concourent à protéger l'environnement à tous les niveaux possibles.

Article 37: L'Etat est propriétaire des gisements et des accumulations naturelles d'hydrocarbures existant en Côte d'Ivoire y compris sur le plateau continental.

Article 38: Les cours d'eau, les lagunes, les lacs naturels les nappes phréatiques, les sources, les bassins versants et les zones maritimes sont du domaine public.

Article 39: Les immeubles, établissements agricoles, industriels, commerciaux ou artisanaux, véhicules ou autres objets mobiliers possédés, exploités ou détenus par toute personne physique ou morale, privée ou publique devront être construits, exploités ou utilisés de manière à satisfaire aux normes techniques en vigueur ou édictées en application de la présente loi.

Article 40: Tout projet doit faire l'objet d'une étude d'impact environnemental préalable à l'octroi de toutes autorisations. Il en est de même des programmes, plans et politiques susceptibles d'affecter l'environnement. Un décret en précisera la liste complète.

Tout projet fait l'objet d'un contrôle et d'un suivi pour vérifier la pertinence des prévisions et adopter les mesures correctives nécessaires.

Article 41: L'Etude d'Impact Environnemental (EIE) comporte au minimum:

- une description de l'activité proposée;
- une description de l'environnement susceptible d'être affecté y compris les renseignements spécifiques nécessaires pour identifier ou évaluer les effets de l'activité proposée sur l'environnement;

- une liste des produits utilisés le cas échéant;
- une description des solutions alternatives, le cas échéant;
- une évaluation des effets probables ou potentiels de l'activité proposée et des autres solutions possibles sur l'environnement, y compris les effets directs, indirects, cumulatifs à court, à moyen et long termes;
- l'identification et la description des mesures visant à atténuer les effets de l'activité proposée et les autres solutions possibles, sur l'environnement, et une évaluation de ces mesures;
- une indication des lacunes en matière de connaissance et des incertitudes rencontrées dans la mise au point de l'information nécessaire;
- Une indication sur les risques pour l'environnement d'un Etat voisin dus à l'activité proposée ou aux autres solutions possibles;
- un bref résumé de l'information fournie au titre des rubriques précédentes;
- la définition des modalités de contrôle et de suivi réguliers d'indicateurs environnementaux avant (état initial), pendant le chantier, durant l'exploitation de l'ouvrage ou de l'aménagement et le cas échéant, après la fin de l'exploitation (remise en état ou réaménagement des lieux).
- une estimation financière des mesures préconisées pour prévenir, réduire ou compenser les effets négatifs du projet sur l'environnement et des mesures de suivi et contrôle réguliers d'indicateurs environnementaux pertinents.

Article 42: L'examen des études d'impact environnemental par le Bureau d'Etude d'Impact Environnement, donnera lieu au versement d'une taxe au Fonds National de l'Environnement dont l'assiette sera précisée par décret.

Article 43: Sur proposition de l'Autorité Nationale Compétente, le Gouvernement établit et révisé par décret la liste des travaux, activités, documents de planification pour lesquels les autorités publiques ne pourront, sous peine de nullité, prendre aucune décision, approbation ou autorisation sans disposer d'une étude d'impact environnemental leur permettant d'en apprécier les conséquences directes ou indirectes pour l'environnement.

Article 44: Sont soumises à autorisation, les installations qui présentent des dangers ou inconvénients visés à l'article 6 du présent code.

Elles ne peuvent être ouvertes sans une autorisation préalable délivrée dans les conditions fixées par décret sur demande de l'exploitant.

Sont soumises à déclaration, les installations qui, bien que ne présentant pas de tels dangers ou inconvénients, doivent néanmoins respecter les prescriptions générales dictées par l'autorité compétente en vue d'assurer la protection des intérêts visés à l'article 6. Les installations soumises à autorisation, qui génèrent des risques majeurs (incendies, explosions, émanations toxiques, etc...) font l'objet d'une réglementation spécifique visant notamment à maîtriser l'urbanisation dans leur environnement immédiat.

Article 45: Sont soumises à permis ou à licence, la pêche industrielle, la chasse et la capture.

Article 46: L'inspection des installations classées est assurée par des agents assermentés ayant la qualité d'Officier de Police Judiciaire dans l'exercice de leur fonction.

Article 47: Les installations classées visées à l'article 6 sont assujetties à une taxe de contrôle et d'inspection, versée au Fonds National de l'Environnement.

Article 48: Les installations de l'Etat affectées à la défense nationale, sont soumises à des règles particulières.

Article 49: Toutes les installations classées existantes bénéficient d'un délai de 2 ans à compter de la promulgation de la présente loi pour se conformer à ses dispositions et à ses textes d'application.

Article 50: Il est instauré des normes appropriées pour la protection de l'environnement.

Il est créé un label pour les produits de consommation les plus respectueux de l'environnement.

Des normes sont également exigées pour les produits importés.

Article 51: Les entreprises ou ouvrages, sources de pollutions importantes seront soumis, à leurs frais, à un audit écologique par des experts agréés. Les conditions de cet audit seront précisées par décret.

Les résultats de l'audit écologique sont transmis à l'Autorité Nationale Compétente.

Article 52: Il est institué des périmètres de protection en vue de la conservation ou de la restauration des:

- écosystèmes,

- forêts, boisements, espèces et espaces protégés,
- monuments, sites et paysages,
- systèmes hydrologiques et de la qualité des eaux.
- espaces littoraux...

Article 53: L'Autorité Nationale Compétente peut à l'intérieur des périmètres visés à l'article 49:

- interdire, limiter ou réglementer les activités incompatibles avec les objectifs assignés à la zone;
- mettre en oeuvre des programmes de restauration du milieu naturel ou des monuments;
- approuver tout plan d'aménagement ou d'action définissant les moyens d'atteindre les objectifs assignés à la zone.

Article 54: La protection, la conservation et la valorisation du patrimoine culturel et architectural sont partie intégrante de la politique nationale de protection et de la mise en valeur de l'environnement.

Article 55: Il est dressé, une liste de sites et monuments protégés qui précise les mesures à prendre pour la protection du patrimoine architectural, historique et culturel sur tout le territoire national.

Cette liste est révisée tous les cinq ans.

Article 56: L'Etat peut élaborer des plans d'actions environnementales avec les collectivités avec les collectivités locales ou toute autre structure.

CHAPITRE II

OBLIGATIONS DE L'ETAT ET DES COLLECTIVITES LOCALES

SECTION I

LES OBLIGATIONS GÉNÉRALES

Article 57: L'Etat s'engage à:

- faire de l'environnement et de sa protection une politique globale et intégrée;
- prendre toutes dispositions appropriées pour assurer ou faire assurer le respect des obligations découlant des conventions et accords internationaux auxquels il est partie;
- interdire toute activité menée sous son contrôle ou dans les limites de sa juridiction, susceptible

d'entraîner une dégradation de l'environnement dans un autre Etat ou dans des régions ne relevant d'aucune juridiction nationale;

- oeuvrer en toute coopération avec les autres Etats pour prendre les mesures contre la pollution transfrontière.

Article 58: L'Etat détermine la politique nationale de l'Environnement et veille à sa mise en oeuvre.

Il assure, par des mesures idoines, la protection, la conservation et la gestion de l'environnement.

Il réglemente l'établissement d'accès aux digues et déversements d'égouts dans les milieux récepteurs.

Les occupants d'un bassin versant et/ou les utilisateurs de l'eau peuvent se constituer en association pour la protection du milieu.

Il interdit et réglemente l'exercice d'activités susceptibles de constituer, d'une manière ou d'une autre, une menace pour l'environnement, l'intégrité et le fonctionnement des écosystèmes.

Article 59: L'Etat détermine:

- la création d'un réseau de réserves biologiques en proportion avec l'usage des sols;
- des mesures de lutte contre l'érosion;
- les mesures de lutte contre la pollution du sol par des substances chimiques, les engrais, les produits phytosanitaires et autres dont l'usage est admis;
- les mesures de prévention des pollutions diffuses affectant le sol et les mesures concrètes de restauration des sols endommagés;
- les périmètres de protection des points de prélèvement de l'eau destinée à la consommation humaine.

Article 60: L'Etat dresse une liste:

- des espèces animales et végétales qui doivent être partiellement, intégralement ou spécialement protégées en raison, de leur rôle dans les écosystèmes, de leur rareté, de leur valeur esthétique, de la menace qui pèse sur leurs populations et enfin de l'intérêt économique, culturel et scientifique qu'elles représentent;
- des sites et monuments protégés et il est précisé les mesures à prendre pour la protection du patrimoine architectural historique et culturel national;
- des établissements, édifices et monuments qui, bien

que non classés ou inscrits sur les quels l'affichage est interdit.

Cette liste est revue et corrigée tous les cinq ans.

Article 61: L'Etat assure la gestion de l'eau en préservant la qualité de ses sources, en évitant le gaspillage et en accroissant la disponibilité.

Article 62: L'Etat établit des normes conçues de manière à faciliter la valorisation des déchets.

A cette fin, il est fait obligation aux structures concernées:

- de développer et de divulguer la connaissance des techniques appropriées;
- de conclure des contrats organisant la réutilisation des déchets;
- de réglementer les modes de fabrication et d'utilisation de certains matériaux ou produits, afin de faciliter la récupération des éléments de leur composition.

Article 63: L'Etat s'engage à:

- promouvoir l'utilisation des énergies renouvelables ou non;
- lutter contre toute forme de gaspillage des énergies;
- lutter contre le gaspillage de toutes les sources d'énergie notamment les ressources ligneuses.

Article 64: Tout projet de texte relatif à l'environnement est soumis à l'avis et à l'observation de l'Autorité Nationale Compétente.

L'Autorité Nationale Compétente dispose d'un délai d'un mois à compter de la transmission du projet pour donner suite. Le silence de ladite autorité vaut, aux termes du délai, approbation. Toute divergence entre l'auteur d'un projet et l'Autorité Nationale Compétente est tranchée par le Gouvernement.

Article 65: L'Etat prend les mesures adéquates pour introduire l'éducation, la formation et la sensibilisation environnementale dans les programmes d'enseignement à tous les niveaux. Il peut donner son agrément aux associations de défense de l'environnement et leur attribuer des subventions.

Article 66: Dans sa politique nationale de gestion de l'environnement, l'Etat de Côte d'Ivoire intègre la coopération internationale.

Article 67: L'Autorité Nationale Compétente coordonne les mécanismes nationaux de mise en oeuvre et de suivi des conventions et accords internationaux relatifs à l'environnement.

Article 68: Les communes sont responsables de la collecte et de l'élimination des déchets ménagers. Cette action peut être entreprise en liaison avec les départements et les régions ou avec des groupes privés ou publics habilités à cet effet.

Elles ont l'obligation d'élaborer des schémas de collecte et de traitement des déchets ménagers avec le concours des services techniques des structures compétentes.

Elles assurent également l'élimination d'autres déchets qu'elles peuvent, eu égard à leurs caractéristiques et aux quantités produites, contrôler ou traiter.

Article 69: Les collectivités locales sont tenues d'avoir:

- un plan de gestion de l'environnement;
- une ou plusieurs décharges contrôlées d'ordures ménagères.

Elles doivent veiller à enrayer tous les dépôts sauvages.

Elles institueront une taxe de salubrité.

Article 70: Il incombe à l'Etat et aux collectivités locales et aux concessionnaires d'assurer, dans le respect des prescriptions environnementales, l'exploitation durable des gisements et accumulations naturelles d'hydrocarbures liquides ou gazeux existant en Côte d'Ivoire y compris sur le plateau continental.

Article 71: L'Etat et les collectivités doivent veiller à la création, au maintien et à l'entretien d'espaces verts.

Article 72: La gestion des eaux usées relève de la compétence de l'Etat, des collectivités locales et de toutes autres structures susceptibles de produire des effluents de nature à porter atteinte à l'environnement.

Elle peut faire l'objet d'une concession.

Article 73: L'Etat, les régions, les départements et les collectivités locales s'engagent à élaborer des programmes d'action et à organiser des plans d'urgence dans tous les domaines en vue de protéger l'environnement.

Article 74: L'éducation, la formation et la sensibilisation environnementales incombent à l'Etat, aux collectivités locales et aux associations de défense.

Article 75: Les établissements et institutions publics ou privés ayant en charge l'enseignement, la recherche et l'information sont tenus dans le cadre de leurs compétences respectives:

- de sensibiliser aux problèmes d'environnement par des programmes adaptés;
- d'intégrer dans leurs activités des programmes permettant d'assurer une meilleure connaissance de l'environnement.

SECTION II LES INSTITUTIONS

Article 76: Pour l'application de la présente loi, il sera créé:

un réseau de réserves biologiques en proportion avec l'intensification de l'exploitation des sols;

un observatoire de la qualité de l'air;

une Agence Nationale de l'Environnement (ANDE), établissement public de catégorie particulière dotée de la personnalité morale et de l'autonomie financière;

un fonds national de l'environnement (FNDE):

une bourse de déchets;

une autorité judiciaire compétente devant constater ou faire cesser immédiatement une pollution ou toute forme de dégradation de l'environnement.

TITRE IV

DISPOSITIONS PREVENTIVES ET DISPOSITIONS PENALES

CHAPITRE I DISPOSITIONS PREVENTIVES

Article 77: Sont interdits:

- les déversements, les rejets de tous corps solides, de toutes substances liquides, gazeuses, dans les cours et les plans d'eaux et leurs abords.
- toute activité susceptible de nuire à la qualité de l'air et des eaux tant de surface que souterraines.

Article 78: Il est interdits de rejeter dans les zones maritimes et lagunaires, toutes substances susceptibles de:

- détruire les sites et monuments présentant un intérêt scientifique, culturel, touristique ou historique;
- détruire la faune et la flore;
- constituer un danger pour la santé des êtres vivants;
- porter atteinte à la valeur esthétique et touristique de la lagune, de la mer et du littoral.

Article 79: Il est interdit de rejeter dans les eaux maritimes et lagunaires sous juridiction ivoirienne:

- des eaux usées, à moins de les avoir préalablement traitées conformément aux normes en vigueur;
- des déchets de toutes sortes non préalablement traités et nuisibles.

Article 80: Il est interdit de détenir ou d'abandonner des déchets susceptibles de:

- favoriser le développement d'animaux vecteurs de maladies;
- provoquer des dommages aux personnes et aux biens.

Article 81: Sont interdits:

- tous déversements, écoulements, rejets ou dépôts de toutes natures susceptibles de provoquer ou d'accroître la pollution des eaux continentales, lagunaires et maritimes dans le limites territoriales;
- toute exploitation illégal, dégradante et/ou non réglementée;
- toute émission dans l'atmosphère de gaz toxique, fumée, suie, poussière ou toute autre substance chimique non conformes à la réglementation en vigueur.

Article 82: Conformément aux dispositions spéciales des conventions internationales ratifiées par la

Côte d'Ivoire, sont interdits les déversements, les immersions et incinérations dans les eaux maritimes sous juridiction ivoirienne de substances de toutes natures susceptibles:

- de porter atteinte à la santé publique et aux ressources maritimes biologiques
- de nuire aux activités maritimes y compris la navigation et la pêche;

- d'altérer la qualité des eaux maritimes;
- de dégrader les valeurs d'agréments et le potentiel touristique de la mer et du littoral.

Article 83: Sont interdits:

- les dépôts de déchets sur le domaine public non autorisé, y compris le domaine public maritime tel que défini par les textes en vigueur;
- l'importation non autorisée de déchets sur le territoire national;
- l'immersion, l'incinération ou l'élimination par quelque procédé que ce soit, des déchets dans les eaux continentales, lagunaires et maritimes, sous juridiction ivoirienne.

Article 84: Sont interdits sur le territoire national, tous actes relatifs à l'achat, à la vente, à l'importation, à l'exportation et au transit des substances ou combinaison de substances visées à l'article 8 de la présente loi.

Article 85: Sont interdites, si elles n'ont pas fait l'objet d'une homologation et/ou si elles ne bénéficient pas d'une autorisation provisoire de vente, d'importation, d'exportation délivrée par les autorités compétentes, toute importation, exportation, détention en vue de la vente ou de la mise en vente, de distribution même à titre gratuit, de l'une quelconque des matières fertilisantes définies à l'article 134 de la présente loi.

Article 86: L'usage de l'avertisseur sonore est interdit dans les agglomérations et aux environs des hôpitaux et des écoles sauf en cas de nécessité absolue et dans ce cas, il doit être bref et modéré.

De même sont interdites les émissions de bruits, de lumières et d'odeurs susceptibles de nuire à la santé des êtres vivants ou de constituer une gêne excessive et insupportable pour le voisinage ou d'endommager les biens.

Article 87: Tout affichage est interdit sur:

- les immeubles classés monuments historiques ou inscrits;
- les monuments naturels et dans les sites classés, inscrits ou protégé ainsi que sur les panneaux de signalisation routière;
- les monuments, sites et les constructions dont la liste est établie par les autorités compétentes, bénéficiant d'une protection spéciale.

Article 88: Sont interdits:

- l'usage d'explosif, de drogues, de produits chimiques ou appâts dans les eaux de nature à enivrer le poisson ou à le détruire;
- l'emploi de drogues, de produits chimiques ou appâts de nature à détruire le gibier et/ou le rendre impropre à la consommation;
- les feux de brousse non contrôlés.

Article 89: Il est interdit de:

- tuer, blesser ou capturer les animaux appartenant aux espèces protégées;
- détruire ou endommager les habitats, les larves, et les jeunes espèces protégées;
- faire périr, endommager les végétaux protégés, en cueillir tout ou partie;
- transporter ou mettre en vente tout ou partie d'un animal ou d'un végétal protégé;
- procéder à l'abattage d'arbres dans les forêts classées, aires protégées et parcs nationaux.

CHAPITRE II DISPOSITIONS PENALES

Article 90: Toute personne morale ou physique, qui omet de faire une étude d'impact environnemental préalable à tout projet susceptible d'avoir des effets nuisibles sur l'environnement, est passible de suspension d'activité ou de fermeture d'établissement sans préjudice des mesures de réparation aux dommages causés à l'environnement, aux personnes et aux biens.

La falsification d'une étude d'impact environnemental et/ou sa non conformité sont punies des mêmes peines.

Article 91: Est puni d'un emprisonnement de deux mois à deux ans et d'une amende de 5.000.000 de francs, quiconque procède ou fait procéder à l'abattage d'arbres ou d'animaux dans les forêts classées, les aires protégées et les parcs nationaux.

Les complices sont punis des mêmes peines.

Article 92: Est puni d'une amende de 10.000.000 de francs à 100.000.000 de francs et d'un emprisonnement de six mois à deux ans ou de l'une de ces deux peines seulement, toute destruction de site ou monument classé.

Article 93: Est puni d'un emprisonnement de un à six mois et d'une amende de 1.000.000 de francs à 5.000.000 de francs ou de l'une de ces deux peines seulement:

- tout responsable d'un établissement faisant obstacle à l'exercice des fonctions des agents chargés de l'inspection des installations classées;

En cas de récidive, il sera procédé à la fermeture temporaire de l'établissement.

Article 94: Est passible d'une amende de 5 000 000 de francs à 50 000 000 de francs sans préjudice d'une suspension temporaire des activités, ou d'une fermeture de l'établissement, tout établissement qui ne se sera pas mis en conformité avec les dispositions de la présente loi dans les deux ans de sa promulgation.

Article 95: Quiconque poursuit l'exploitation d'une installation classée sans se conformer à la mise en demeure d'avoir à respecter les prescriptions techniques déterminées sera puni d'un emprisonnement d'un mois à un an et d'une amende de 200.000 francs à 2.000.000 de francs.

Article 96: Quiconque poursuit l'exploitation d'une installation classée frappée de fermeture, de suspension ou d'interdiction sera puni de deux mois à deux ans d'emprisonnement et de 50.000.000 de francs à 100.000.000 de francs ou de l'une de ces deux peines seulement.

Article 97: Est puni d'une amende de 1.000.000 de francs à 2.500.000 de francs et d'un emprisonnement de six mois à deux ans ou de l'une de ces deux peines seulement quiconque:

- se livre de façon illicite à des travaux de recherches ou d'exploitation des hydrocarbures.

Article 98: Est passible d'une amende de 100.000 000 de francs à 500.000 000 de francs quiconque effectue des rejets interdits ou, sans autorisation, des rejets soumis à autorisation préalable ainsi que défini aux articles 74 à 86 du présent code dans les conditions fixées par décret ou ne se conforme pas aux conditions déterminées par son autorisation.

Article 99: Est puni d'une amende de 2 000.000 de francs à 50.000.000 de francs et d'un emprisonnement de deux mois à deux ans ou de l'une de ces deux peines seulement, toute personne ayant pollué les eaux continentales par des déversements, écoulements, rejets et dépôts de substances de toute nature susceptible de provoquer ou d'accroître la pollution des eaux continentales et/ou des eaux maritimes dans les limites territoriales.

En cas de récidive, la peine est portée au double. Le coupable peut être condamné à curer les lieux pollués.

L'Autorité Nationale Compétente peut, en cas de négligence, refus ou résistance, y procéder ou y faire procéder aux frais et dépens de l'intéressé.

Article 100: Sont punis d'une amende de 100.000.000 de francs à 1 000.000.000 de francs et d'un emprisonnement de un à cinq ans ou de l'une des deux peines seulement sans préjudice des sanctions administratives en vigueur, quiconque, nonobstant les dispositions spéciales des conventions internationales, procède à des déversements, immersion et incinération dans les eaux maritimes sous juridiction ivoirienne, des substances de toutes natures susceptibles:

- de porter atteinte à la santé publique et aux ressources maritimes biologiques;
- de nuire aux activités maritimes y compris la navigation et la
- d'altérer la qualité des eaux maritimes;
- de dégrader les valeurs d'agrément et le potentiel touristique de la mer et du littoral.

L'administration maritime peut arraisonner tout navire surpris en flagrant délit de déversement de contaminants, y compris les hydrocarbures en mer.

En cas de récidive, l'Administration se réserve le droit de procéder à la saisie des biens.

Article 101: Est passible d'un emprisonnement de 1 à 5 ans et d'une amende de 5.000.000 de francs à 100.000.000 de francs quiconque:

- dépose des déchets dans le domaine public maritime national;
- importe sans autorisation des déchets sur le territoire national;
- immerge, incinère ou élimine par quelque procédé que ce soit des déchets dans les eaux continentales, lagunaires et/ou maritimes sous juridiction ivoirienne.

Article 102: Est punie d'une amende de 1.000.000 de francs à 30.000.000 de francs et d'un emprisonnement de trois à vingt-quatre mois ou l'une de ces deux peines seulement, toute entreprise agréée procédant à des dépôts sauvages.

L'autorisation d'exercer toute activité de collecte de déchets sur le territoire national peut être suspendue pour une période d'au moins deux ans.

Article 103: Quiconque procède ou fait procéder à l'achat à la vente, à l'importation, au transit, au stockage, à l'enfouissement ou au déversement sur le territoire national de déchets dangereux ou signe un accord pour l'autorisation de telles activités est puni d'un emprisonnement de 10 à 20 ans et d'une amende de 500.000.000 de francs à 5.000.000.000 de francs.

La juridiction ayant prononcé la peine peut:

- ordonner la saisie de tout moyen ayant servi à la commission de l'infraction;
- ordonner la saisie et l'élimination des déchets aux frais et dépens du propriétaire desdits déchets.

Article 104: Seront punis d'une amende de 1 000 francs à 5 000 francs ceux qui auront déposé, abandonné, jeté des ordures, déchets, matériaux, ou versé des eaux usées domestiques en un lieu public ou privé sauf si le dépôt a lieu à un emplacement désigné à cet effet par l'Autorité Compétente.

Sont punis d'une amende de 1 000 francs à 10 000 francs ou astreint au nettoyage des lieux, ceux qui auront pollué par des déchets humains un bien public ou privé sauf si ces emplacements sont désignés à cet effet par l'autorité compétente.

Article 105: Est passible d'une amende de 10.000 francs à 5.000.000 de francs quiconque:

- fait usage dans les agglomérations et aux environs des hôpitaux et des écoles, d'avertisseurs sonores en dehors des cas de danger immédiat;
- fait usage intempestif et sans nécessité absolue, en dehors des agglomérations d'avertisseurs sonores;
- fait usage, sans nécessité absolue d'avertisseurs sonores dans la nuit;
- émet des bruits susceptibles de causer une gêne aux usagers de la route et aux riverains;
- utilise des engins à moteur munis d'avertisseurs sonores non conformes au type homologué par les services compétents;
- émet des bruits susceptibles de nuire à la santé des êtres vivants, de constituer une gêne excessive et insupportable pour le voisinage ou d'endommager les biens.

Article 106: Sera puni d'une amende de 10.000 francs à 50.000 francs, quiconque:

- incinère des ordures ménagères, des pneumatiques, des plastiques;

- tout conducteur dont le véhicule dégage des fumées et gaz nocifs.

Article 107: Sera puni d'une amende de 50.000 francs à 5 000.000 francs et d'un emprisonnement de trois mois au maximum quiconque fait:

- de la publicité sur un immeuble sans l'autorisation du propriétaire et des autorités compétentes;
- de l'affichage sur les immeubles classés inscrits ou classés monuments historiques, sur les monuments naturels et dans les sites inscrits ou protégés.

Article 108: Les circonstances atténuantes et le sursis ne sont pas applicables aux infractions prévues par le présent code relatives aux déchets dangereux.

Article 109: La tentative et la complicité des infractions prévues par le présent code sont punissables des mêmes peines que l'infraction elle-même.

Article 110: Les infractions sont constatées sur procès-verbal par les agents assermentés de l'Autorité Nationale Compétente.

Article 111: L'administration chargée de l'environnement peut transiger en toute circonstance et à tout moment de la procédure avant toute décision au fond.

La demande de transaction est soumise à l'Autorité Nationale Compétente qui fixe en cas d'acceptation, le montant de celle-ci.

Article 112: La poursuite des infractions relevant du présent code obéit aux règles définies par le code de procédure pénale.

Article 113: Les collectivités locales, les associations de défense de l'environnement régulièrement déclarées ou toutes personnes doivent saisir l'Autorité Nationale Compétente pour tout recours devant les juridictions et/ou exercer les droits reconnus à la partie civile en ce qui concerne les faits constituant une infraction relevant de la présente loi et portant un préjudice direct ou indirect aux intérêts collectifs ou individuels.

TITRE V

DISPOSITIONS FINALES

Article 114: Les modalités d'application des dispositions de la présente loi feront l'objet de décrets.

Article 115: La présente loi qui abroge toutes les dispositions antérieures contraires sera enregistrée et publiée

au Journal Officiel de la République de Côte d'Ivoire et exécutée comme loi d'Etat.

Fait à Abidjan le 3 Octobre 1996

Henri KONAN BEDIE

5

ERITREA

Environment Proclamation 1996

CONTENTS

SECTION	PAGE	
PREAMBLE		
PART ONE GENERAL PROVISIONS		Article 16. International Cooperation
Chapter I Preliminary Provisions and Definitions		Article 17. principle of Prevention and Precaution
Article 1. Issuing authority		
Article 2. Short Title		PART TWO ESTABLISHMENT OF INSTITUTIONS
Article 3. Definitions		Chapter I Eritrean Agency for the Environment
Chapter II Environmental Objectives and Policies		Article 18. Establishment of the Eritrean Agency for the Environment
Article 4. Objectives		Article 19. Powers and Functions of the Agency
Article 5. National Responsibility		Article 20. The Executive Director
Article 6. Partnership between the Government and the People		Article 21. Budget of the Agency
Article 7. Integrated Environmental Management		Chapter II Eritrean Council for the Environment
Article 8. Optimization		Article 22. Establishment of the Eritrean Council for the Environment
Article 9. Rehabilitation and Restoration		Article 23. Composition of the Council
Article 10. Diverse Environmental Responsibilities		Article 24. Functions of the Council
Article 11. Collaborative Management		Article 25. Meetings and Proceedings of the Council
Chapter III Principles of Environmental Protection and Sustainable Development		Article 26. Budget of the Council
Article 12. The Right to a Clean Environment		Article 27. Technical and Scientific Advice
Article 13. Public and Community Participation		Chapter III Eritrean Peoples' Forum for the Environment
Article 14. Polluter Pays Principle		Article 28. Establishment of the Eritrean peoples' Forum for the Environment
Article 15. Responsibility and Liability		Article 29. Functions and Procedures of the Eritrean Peoples' Forum for the Environment
		Article 30. Focal Points
		Article 31. Financial Support for the Eritrean Peoples' Forum for the Environment

PART III	BASIC INSTRUMENTS OF ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT	Article 51.	Review of Environmental Impact Statements
Chapter 1	Integrated Planning	Article 52.	Decision of the Agency on Environmental Impact Statements and Recommendations for Project Approval or Disapproval
Article 32.	Environmental Planning	Article 53.	Timeliness of Agency Action
Article 33.	Contingency Planning	Article 54.	Conflict Resolution
Article 34.	Priority Setting	Article 55.	Post-EIA Auditing
Chapter II	Eritrean National Environment Fund	Article 56.	Regulations
Article 35.	Establishment of the Eritrean National Environment Fund	PART FOUR MANAGEMENT OF ENVIRONMENTAL QUALITY AND NATURAL RESOURCES	
Article 36.	Sources of Funds for the Eritrean National Environment Fund	Chapter 1	Environmental Quality Management
Article 37.	Use of the Eritrean National Environment Fund	Article 57.	Establishment of Quality Criteria and Standards
Chapter III	Incentives	Article 58.	Basic Factors for setting Environmental Standards and Quality Criteria
Article 38.	Economic Incentives	Article 59.	Compliance with Standards
Article 39.	Laws and Regulations on Economic Incentives	Article 60.	Soil Quality
Chapter IV	Information, Education and Public Awareness	Article 61.	Water Quality
Article 40.	Public Information	Article 62.	Waste Management
Article 41.	State of the Environment Reports	Article 63.	Toxic and Hazardous Substances
Article 42.	Public Awareness Campaigns	Article 64.	Air Quality
Article 43.	Environmental Education	Article 65.	Ambient Quality
Article 44.	Environmental Training	Chapter II	Natural Resource Management
Article 45.	Scientific Research	Article 66.	Collaborative Management
Chapter V	Environmental Impact Assessment	Article 67.	Land Use Management
Article 46.	Requirement of Environmental Impact Assessment (EIA)	Article 68.	Rehabilitation of Degraded Ecosystems
Article 47.	Project Brief	Article 69.	Water Resource Management
Article 48.	Environmental Impact Statements (EIS)	Article 70.	Integrated Coastal Zone Management
Article 49.	Submission of Environmental Impact Statements	Article 71.	Conservation and Sustainable Use of Biological Diversity
Article 50.	Confidential Information	Article 72.	Establishment of Eritrean National Protected Areas System (ENPAS)

Article 73.	Shared Natural Resources and Transboundary Migratory Species	Article 80.	Measures to Ensure Compliance
PART FIVE	MONITORING, INSPECTION AND ENFORCEMENT	Article 81.	Remedies
Chapter 1.	Monitoring and Inspection	Article 82.	Civil Actions
Article 74.	Eritrean Monitoring and Assessment Network	Article 83.	Civil Liability
Article 75.	Monitoring and Assessment Procedures	Article 84.	Administrative Fines
Article 76.	Monitoring and Enforcement Responsibility	Article 85.	Criminal Offenses
Article 77.	Existing Activities	Article 86.	Personal Responsibility
Article 78.	Records	Article 87.	Immunity
Article 79.	Regulations for Inspection and Analysis	PART SIX	MISCELLANEOUS PROVISIONS
Chapter II	Enforcement	Article 88.	Power to Adopt Regulations
		Article 89.	Inconsistent Laws and Regulations
		Article 90.	Effective Date

PREAMBLE

Conscious that development depends on the use of natural resources.

Fully aware that natural resources in the past were exploited without attention to conservation and sustainability.

Convinced that development which is to last requires the sustainable use and management of natural resources.

Acknowledging that rational management and conservation of natural resources is a common concern of all citizens of Eritrea.

Conscious also of the dynamic inter-relationships among terrestrial and marine ecosystems and of impacts of human activities on them.

Believing that all living things have their own value.

Concerned that human activities are contribution to processes, such as desertification, which have significant negative implications for the citizens of Eritrea.

Convinced that public participation and community involvement are indispensable elements of effective environmental management in Eritrea.

Reaffirming that effective environmental management requires taking into account the needs of present and future generations.

The government of the State of Eritrea issues this Environment Proclamation for the integrated management of the environment in Eritrea.

PART ONE

GENERAL PROVISIONS

CHAPTER 1

PRELIMINARY PROVISIONS AND DEFINITIONS

Article 1. Issuing Authority

This Proclamation has been issued by the government of the State of Eritrea.

Article 2. Short Title

This Proclamation may be cited as the "Eritrean Environment Proclamation No. ___ 1996."

Article 3. Definitions

- A) "Agency" means the Eritrean Agency for the Environment established pursuant to this Proclamation.
- b) "Air" includes air within a building, a vehicle, or within any enclosure or structure.
- c) "Air Quality" means the concentration, prescribed in standards and regulations issued pursuant to this Proclamation, of pollutants in the atmosphere at the point of measurement.
- d) "Biological Diversity" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which are part; this includes diversity within species, between species and of ecosystems.
- e) "Bioregional Management" means managing biological diversity on a regional basis, using natural boundaries to facilitate integrating sustainable development and biodiversity conservation.
- f) "Chemical" means a chemical substance in any form, whether by itself or in a mixture or preparation, whether manufacture or derived from nature, and includes industrial chemicals, pesticides, fertilizers and drugs.
- g) "Coastal Zone" means all coastal and marine areas under national jurisdiction and control, including the Exclusive Economic Zone (EEZ). The precise area of the coastal zone shall be specified by legislation.
- h) "Council" means the Eritrean Council for the Environment, established pursuant to this Proclamation.
- i) "Ecological Balance" means the complex, dynamic ability of ecosystems to maintain their functions by autoregulative mechanisms.
- j) "Ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.
- k) "Environment" means the physical factors of the surroundings of the human being, including land and natural resources such as air, outer space, water, soil, climate, fauna, flora, sound, odors, human-built constituents, the interaction between and among these

- factors, and the quality of life and conditions relative to the welfare and health of human beings.
- l) "Environment Audit" means a systematic and documented report on the extent to which policies and activities during the previous reporting period have diminished or improved the environment and optimized the sustainable use of natural resources and biodiversity and its components.
- m) "Environmental Impact Assessment" means a procedure used to identify the environmental effects of a proposed project and to plan appropriate measures to reduce or eliminate its negative effects.
- n) "Environmental Impact Statement" means a report evaluating the likely impact or any effect caused or which may be caused by a proposed project.
- o) "Environmental Monitoring" means the continuous and/or periodic determination of actual and potential effects of any activity or phenomenon.
- p) "Eritrean Waters" includes any Red Sea area of water enclosed within the territorial waters and Exclusive Economic Zone of the State of Eritrea.
- q) "Executive Director" means the Executive Director of the Agency.
- r) "Focal Point" means the individual or unit designated by a line ministry to be responsible for coordinating with the Agency.
- s) "Hazardous Substance" means any chemical, pesticide, waste, gas, medicine, drug, plant, animal or micro-organism which is injurious to human or animal health or the environment.
- t) "Integrated environmental Management" means a coordinated process of defining objectives, compiling, analyzing and synthesizing data, planning, implementing, monitoring, evaluating and enforcing measures to integrate environmental protection, conservation and sustainable utilization of natural resources into all aspects, levels and stages of planning for socio-economic development.
- u) "Land Use Planning" means the multi-disciplinary process which aims to achieve sustainable utilization of land in accordance with its identified optimum potential use and taking into account the effects of such use on the ecosystems involved.
- v) "Line Ministry" means any ministry, department, governmental organization, or public authority at the national, regional, subregional community or local level, including *Baitos*, *Shimageles* and Public Officers.
- w) "Monitoring" means the continuous and/or periodic determination of actual and potential effects of any project, activity, installation, product or phenomenon.
- x) "Under National Jurisdiction and Control" includes the land, territory and airspace within Eritrea's internationally recognized borders, its territorial waters and the adjacent maritime zones as defined by law and historic titles, all ships and aircraft registered in Eritrea, and all Eritrean citizens.
- y) "Pollution" means any alteration of the environment caused by discharging waste, chemicals, hazardous substances or other pollutants in a manner which adversely affects a beneficial use and/or creates a hazard or potential hazard to human beings and/or biodiversity.
- z) "Private Sector" means all forms of non-governmental agencies, partnerships, associations, incorporated bodies and natural persons.
- aa) "Project" means any development activity, proposal or undertaking, including a plan or program.
- bb) "Proponent" means any natural or legal person, line ministry, national non-governmental organization, or international governmental or non-governmental organization which proposes a project.
- cc) "Protected Area" means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.
- dd) "Soil" includes earth, sand, rock, shells, minerals and the fauna and flora in the soil and derivatives thereof.
- ee) "Standards" means criteria, requirements and specifications for environmental protection duly established or recognized pursuant to this Proclamation.
- ff) "Sustainable Development" means development that meets the needs of this generation without compromising the needs of future generations.
- gg) "Sustainable Use" means present use which does not compromise the ability to use the same resource by future generations.
- hh) "Vessel" includes ship, boat, floating structure or aircraft.
- ii) "Water" includes drinking water, sea-water, river, stream, spring, watercourse reservoir, well, dam, canal, channel, lake, swamp, open drain or underground water.
- jj) "Water Quality" means the concentration, prescribed

in standards and regulations issued pursuant to this Proclamation, of pollutants in water at the point of measurement.

- kk) "Waste" includes any manner of refuse, whether liquid, solid, gaseous, or radioactive, and any other matter prescribed to be waste, which is discharged, emitted, or deposited into the environment in a volume, accumulation, composition or matter likely to adversely affect the environment.

CHAPTER II ENVIRONMENTAL OBJECTIVES AND POLICIES

Article 4. Objectives

The objectives of this Proclamation are to:

- a) establish the institutions responsible for integrating environmental protection and sustainable development in Eritrea and define their respective powers;
- b) provide for implementation of the National Environmental Management Plan for Eritrea (NEMP-E) as may be amended from time to time;
- c) lay the foundation of environmental policy and law in Eritrea and provide the basic instruments for implementing, managing, monitoring and enforcing it;
- d) provide for the coordination of environmental policies and their integration into macroeconomic development decisions; and
- e) establish the basis for the State of Eritrea to make an effective contribution to international cooperation related to environment and sustainable development.

Article 5. National Responsibility

The State of Eritrea is the custodian for the harmonized and integrated management and protection of the national environment and the sustainable use of natural resources.

Article 6. Partnership Between the Government and the People

A conscious and functional partnership between the government and the people of Eritrea shall be the basis for achieving the objectives of environmental protection and sustainable development.

Article 7. Integrated Environmental Management

Environmental policies, laws and regulations shall be

coordinated among line ministries and other bodies involved in environmental management so as to entrench and effectively integrate them into national macroeconomic planning and decision making.

Article 8. Optimization

The fundamental principle for the use of natural resources shall be to optimize, rather than maximize, so as to contribute to the overall objective of the qualitative as well as quantitative sustainability of life for present and future generations.

Article 9. Rehabilitation and Restoration

It is incumbent upon the State of Eritrea to develop and implement pragmatic policies in response to the pressing demands for rehabilitation and restoration of its degraded ecosystems.

Article 10. Diverse Environmental Responsibilities

In consonance with the principle of integrated environmental management set forth in Article 7, the establishment of the Eritrean Agency for the Environment does not release any line ministry or private entity from fulfilling its obligations to cooperate fully in national efforts to integrate environmental management and development.

Article 11. Collaborative Management

All natural resource management policies, programs, and plans shall provide for collaborative management and for multiple use of natural resources, so as to ensure in real terms the involvement of local people in the use and management of natural resources.

CHAPTER III PRINCIPLES OF ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT

Article 12. The Right to a Clean Environment

Every person has a right to a clean and healthy environment and the corresponding duty to maintain, contribute to and enhance the environment individually and collectively.

Article 13. Public and Community Participation

Communities and the public shall be involved in environmental planning and decision making and shall have access to information necessary to ensure conscious and effective participation.

Article 14. Polluter Pays Principle

Any polluter shall bear the cost of preventing pollution and of cleaning up and removing the effects and consequences thereof.

Article 15. Responsibility and Liability

- a) Any person who violates the provision of this Proclamation and the regulations and decisions adopted pursuant to it shall be liable and subject to administrative and criminal law penalties.
- b) Any person causing significant harm to the environment shall be liable for that harm as well as for injury to persons resulting from acts, omissions or negligence.

Article 16. International Cooperation

The State of Eritrea shall:-

- a) fulfil its responsibility to ensure that activities within its jurisdiction or control do not cause damage to the environment of other States or regions beyond its jurisdictional limits; and
- b) participate in, and contribute to the regional and global partnership for and in the conservation, protection and restoration of the invaluable health and integrity of the Earth's ecosystems.

Article 17. Principle of Prevention and Precaution

- a) The national policy for integrated environmental management and protection shall be based on the concept of preventing environmental harm rather than attempting to remedy or compensate for such harm.
- b) Lack of scientific certainty is no reason to postpone action to avoid potentially significant or irreversible harm to the environment.

PART TWO

ESTABLISHMENT OF INSTITUTIONS

CHAPTER I

ERITREAN AGENCY FOR THE ENVIRONMENT

Article 18. Establishment of the Eritrean Agency for the Environment

The Eritrean Agency for the Environment, (the "Agency") is established as an autonomous legal entity.

Article 19. Powers and Functions of the Agency

The Agency shall:-

- a) be the principal body responsible for the formulation and implementation of integrated environmental policy in Eritrea;
- b) implement the National Environmental Management Plan by developing programmes, legislation, regulations, standards, guidelines, and any other necessary instruments, on its own initiative and/or in coordination with line ministries;
- c) assist, as appropriate, the Eritrean Peoples' Forum for the environment at the sub-regional and local levels in designing and implementing their environmental agenda and in securing the necessary resources to do so;
- d) jointly with the appropriate line ministries and members of the private sector, formulate and implement action plans to address major environmental demands in Eritrea, particularly:-
 - (1) to plan, conserve, develop, regenerate and regulate the country's biological diversity, especially forest and wildlife resources and potentials;
 - (2) to combat soil degradation and promote adequate use of available technologies for water management;
 - (3) to process, maintain and enhance sustainable development of marine resources and ensure their balanced and rational exploitation.
 - (4) to administer the national system of protected areas;
- e) supervise all environmental impact assessment (EIA) procedures and review all environmental impact statements (EIS);
- f) coordinate enforcement of all laws, regulations, standards, and other measures adopted pursuant to this Proclamation;
- g) coordinate monitoring, including inspections, audits and post-EIA monitoring;
- h) coordinate collection of environmental data and information;
- i) coordinate environmental education and research initiatives;
- j) prepare periodic reviews of the state of the environment in Eritrea, including changes in environmental conditions, and make the reviews available to the public;

- k) establish and maintain collaboration with appropriate foreign national and international agencies and institutions, and represent the State of Eritrea in international cooperation on the environment;
- l) supervise and coordinate the implementation of international environmental agreements to which Eritrea is a party;
- m) accept and solicit necessary funds, whether voluntary contributions, financial aid or grants, from sources within and outside of Eritrea, as long as there are no conditions to such financial assistance which are contrary to the objectives of this Proclamation;
- n) Administer the Eritrean National Environment Fund;
- o) undertake any other functions consistent with this Proclamation which may be assigned to it.

Article 20. The Executive Director

- a) The Agency shall be administered by an Executive Director appointed by the President of the State of Eritrea.
- b) The Executive Director shall be responsible for carrying out the functions of the Agency provided in Article 19. In particular, the Executive Director shall coordinate with the designated environmental focal points in each line ministry and with appropriate private sector actors, establishing a network for information exchange among them, to facilitate and harmonize;-
 - (1) policy formulation and planning;
 - (2) setting of environmental quality criteria and standards;
 - (3) conception and design of development projects with significant potential for environmental impact;
 - (4) environmental impact assessment procedures and project licensing prerequisites;
 - (5) methods and procedures for environmental quality monitoring and enforcement;
 - (6) compilation, analysis, and synthesis of data on environmental issues;
 - (7) environmental information, education and training programmes;
 - (8) preparation of the periodic review of the state of the environment in Eritrea;
 - (9) providing technical, administrative and financial as-

sistance to regional, sub-regional and local environmental authorities;

(10) participation and contribution of mass organizations in environmental protection, particularly reforestation.

c) The Executive Director shall, in addition:-

(1) represent the Agency before any third party, national or international;

(2) establish the Agency's internal administrative structure, including subsidiary bodies, and define their respective functions;

(3) ensure the presentation to the Eritrean Council for the Environment of:-

(i) a comprehensive report for each fiscal year on the performance of the Agency and II line ministries' environmental focal points, and including coordination with the private sector;

(ii) the External Auditor's report on the Agency for each fiscal year.

Article 21. Budget of the Agency

- a) The Agency shall be provided with a regular budget by the Government of the State of Eritrea.
- b) The Executive Director for the Agency shall, in consultation with the Eritrean Council for the Environment, prepare the annual budget of the Agency for due consideration and approval in the same manner as the budgets of line ministries.

CHAPTER II

ERITREAN COUNCIL FOR THE ENVIRONMENT

Article 22. Establishment of the Eritrean Council for the Environment

The Eritrean Council for the Environment (the council) is established as the organ responsible for integrating national development and environmental policies and objectives.

Article 23. Composition of the Council

- a) The Council shall consist of the following members:-
 - (1) Minister of Local Government
 - (2) Minister of Agriculture
 - (3) Minister of Marine Resources

- (4) Minister of Energy, Mines and Water Resources
- (5) Minister of Finance and Development
- (6) Minister of Health
- (7) Minister of Trade and Industry
- (8) Minister of Construction
- (9) Minister of Tourism
- (10) Minister of Education
- (11) Director, Macro Policy Department, President's Office
- (12) President of the Land Commission
- (13) Environmental Focal Point of each Zone
- (14) President of the Chamber of Commerce of Eritrea
- (15) Representative designated by non-governmental organizations
- (16) President of Asmara University
- (17) Executive Director of the Agency, *ex officio*

- b) The Chair of the Council shall be the Minister of Local Government; the vice Chair shall be the Minister of Agriculture.
- c) The Executive Director of the Agency shall be the Secretary of the Council.

Article 24. Functions of the Council

The Council shall:-

- a) have the power to initiate and/or coordinate policies, plans, programmes, laws, regulations and any other measures which it considers necessary. The Council may delegate this responsibility to the Agency as it sees fit;
- b) ensure that the National Environment Management Plan is implemented and periodically reviewed;
- c) review and issue recommendations on all proposed environmental policy initiatives and on all draft policies, plans, programmes, legislation, regulations, standards, guidelines and other instruments submitted to it by the Agency for consideration;

- d) ensure the designation of focal points for environment and sustainable development within each line ministry which shall be responsible, in coordination with the Agency, for integrating environmental concerns into all activities undertaken by their institutions.
- e) ensure that the environmental agenda of each local and sub-regional Eritrean Peoples' Forum for the environment is integrated into national decision-making processes;
- f) annually review the performance of the Agency and all focal points;
- g) review the periodic state of the environment reports and issue recommendations based on the analysis of change in environmental conditions;
- h) resolve any conflicts which may arise in the course of implementing this Proclamation.

Article 25. Meetings and Proceedings of the Council

- a) The Council shall meet at least twice during each fiscal year at a time and place to be determined by the Chair.
- b) The presence of one-half of the members shall constitute a quorum.
- c) Decisions shall be adopted by a majority vote of the members present and voting; in the event of a tie vote, the Chair shall cast the tie-breaking vote.
- d) The Secretary shall keep minutes and records as required and shall be responsible for following up to ensure that appropriate action is taken on all Council decisions.

Article 26. Budget of the Council

- a) The Government of the State of Eritrea shall provide the Council with a regular budget.
- b) The Chair shall prepare and submit the annual budget for the Council, following the general procedure established for government entities.

Article 27. Technical and Scientific Advice

The Council may call on the Agency, line ministries, other governmental entities, and the private sector for scientific and technical advice as needed. The Council may establish permanent and/or *ad hoc* technical and scientific advisory bodies as necessary.

CHAPTER III
ERITREAN PEOPLES' FORUM FOR THE ENVIRONMENT

Article 28. Establishment of the Eritrean Peoples' Forum for the Environment

The Eritrean Peoples' Forum for the Environment (the Forum) is hereby established. The Forum is constituted within the existing village and sub-regional Baito structure.

Article 29. Functions and Procedures of the Eritrean Peoples' Forum for the Environment

a) The function of the Eritrean Peoples' Forum for the Environment is to allow local communities to:-

(1) design, adopt, and implement an environmental agenda which addresses community-specific needs regarding integrated environmental management, optimization of use of natural resources, and sustainable development;

(2) address local issues of integrated environmental management identified in the National Environmental Management Plan.

b) When a Baito sits to design, adopt, or implement its environmental agenda, it acts at the Forum.

c) Each Baito at the village and sub-regional level shall design, adopt, and implement its own environmental agenda. The environmental agenda of each Baito shall be continuously reviewed and updated and shall:-

(1) address specific needs identified by the community or sub-region;

(2) balance benefits and costs;

(3) encompass a diversity of activities;

(4) emphasize training Baito members;

(5) emphasize public awareness of and participation in implementing the environmental agenda.

d) Each Baito's existing procedures shall be followed. A Baito may adopt additional procedures specific to the Forum.

Article 30. Focal Points

a) Each Baito at the village and sub-regional level shall designate one of its members as environmental focal point.

b) The environmental focal point shall be responsible for cooperation among local and sub-regional Baitos acting as the Forum, as well as with the Eritrean Agency for the Environment and other governmental entities, on all issues related to the Baito's environmental agenda.

Article 31. Financial Support for the Eritrean Peoples' Forum for the Environment

Projects presented by the Eritrean Peoples' Forum for the Environment shall be given priority in allocating the resources of the Eritrean National Environment Fund.

PART THREE

BASIC INSTRUMENTS OF ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT

CHAPTER I
INTEGRATED PLANNING

Article 32. Environmental Planning

a) The National Environmental Management Plan shall be the basis for integrating environmental planning at the following levels:-

(1) macroeconomic development planning;

(2) sectoral planning; and

(3) central government, regional and sub-regional authorities, and village community planning.

b) The Agency shall be responsible for:-

(1) periodically revising and updating the national Environmental Management Plan;

(2) implementing environmental plans on its own initiative and in co-ordination with line ministries at the central, regional, sub-regional and village levels; and

(3) ensuring that the plans are effectively integrated and implemented at all levels.

Article 33. Contingency Planning

a) The Agency, jointly with the line ministries concerned, shall prepare and propose for adoption by the

Government, plans for reacting to and mitigating the effects of environmental emergencies, in particular to deal effectively with:

(1) a situation following a serious accident involving one or more substances whose discharge and disposal may endanger human health or the environment;

(2) a situation following a natural catastrophe which may endanger human health, the security of persons and property, or the environment.

b) Contingency plans shall include at a minimum:-

(1) the resources that can be mobilized to deal with the situation;

(2) implementation strategies;

(3) obligatory measures for informing and protecting the population.

Article 34. Priority Setting

The Agency shall, in collaboration with the Council and appropriate line ministries, establish a consultative procedure for setting priorities for integrated environmental management. Priorities shall be reviewed and updated, if necessary, following each review and update of the National Environmental Management Plan.

CHAPTER II

ERITREAN NATIONAL ENVIRONMENT FUND

Article 35. Establishment of the Eritrean National Environment Fund

- a) The Eritrean National Environment Fund (ENEF) is established as an autonomous fund which shall be independent of the national treasury and independent of the regular budget of the Agency.
- b) The Council shall serve as the Board of the Eritrean National Environment Fund. The Agency shall administer the Eritrean National Environment Fund.

Article 36. Sources of Funds for the Eritrean National Environment Fund

a) The Eritrean National Environment Fund is authorized to collect:-

(1) any fees charged by the agency or any line ministry as provided by this Proclamation and any regulations and decisions issued pursuant to it;

(2) any fines imposed as sanctions and/or penalties for violations of this Proclamation and regulations and decisions issued pursuant to it.

b) The Eritrean National Environment Fund may receive funds from:-

(1) the national treasury

(2) international, multilateral or bilateral sources, including donations from non-governmental organizations; and

(3) any other voluntary contributions.

Article 37. Use of the Eritrean National Environment Fund

- a) The Eritrean National Environment Fund shall be used for projects designed to promote environmental conservation and sustainable development at the national; regional, sub-regional and village community levels.
- b) Projects submitted by the Eritrean Peoples' Forum for the Environment shall be given priority consideration.
- c) Eligible Eritrean non-governmental entities may submit environmental projects for consideration for funding through the Eritrean National Environment Fund.
- d) The Agency shall, for consideration and endorsement by the council, prepare detailed regulations for the administration of the Eritrean National Environment Fund.

CHAPTER III

INCENTIVES

Article 38. Economic Incentives

- a) Economic incentives shall, where appropriate and to all extent possible, be used to complement regulatory measures to achieve the objectives of environmental protection and sustainable development.
- b) Subsidies, awards or other financial or in-kind assistance shall be introduced, as appropriate, to reward environmentally friendly behavior and to promote the development and use of clean technologies and alternative sources of energy.
- c) Fees, taxes, charges, or other financial impositions shall be introduced as appropriate disincentives to behavior that degrades the environment or to promote the phasing-out of polluting technologies.

Article 39. Laws and Regulations on Economic Incentives

The Agency and the Council, in cooperation with the Ministry of Finance and Development, shall prepare necessary legislation and regulations to implement programs of economic incentives appropriate to further the objectives of this Proclamation.

**CHAPTER IV
INFORMATION, EDUCATION AND PUBLIC
AWARENESS**

Article 40. Public Information

- a) Every person shall have freedom of access to any information relating to the implementation of the provisions of this Proclamation and any other law relating to the management of natural resources and the environment submitted to the Agency or to any line ministry.
- b) The Agency shall collect, compile, and make available to the public, upon request, information concerning environmental protection and sustainable development. The Agency shall develop necessary procedures and requirements for access to information and shall make them known to the general public.
- c) Any person desiring information shall apply to the Agency. The Agency may refuse or limit access by any person to any proprietary information submitted to or received in the course of inspection or analysis.
- d) No person shall, without the consent of the Agency, publish or disclose to any person, other than in accordance with the provisions of this Proclamation and any regulations and decisions adopted pursuant to it, the contents of any document, communication or information which has come to his/her or its knowledge in the course of his/her duties under this Proclamation.

Article 41. State of the Environment Reports

The Agency shall, at regular intervals, prepare and make available to the public state of the environment reports describing the comprehensive situation of the environment in Eritrea.

Article 42. Public Awareness Campaigns

The Agency shall coordinate with line ministries, the Ministries of Education and of Information in particular, to develop and carry out public awareness campaigns at central, regional, sub-regional, and local levels on issues of general importance concerning environmental

management and sustainable development.

Article 43. Environmental Education

The Agency shall coordinate with the Ministry of Education and the University of Asmara to develop and introduce interdisciplinary courses on national environmental issues into primary, secondary, and university curricula.

Article 44. Environmental Training

- a) The Agency shall coordinate with the Ministry of Education to create and promote opportunities for technical and on-the-job training in environmental protection and sustainable development.
- b) The Agency shall coordinate with appropriate line ministries to conduct demonstrative pilot projects for improved environmental management.

Article 45. Scientific Research

The Agency, in coordination with the Ministries of Education and of Information, shall develop programmes to promote scientific research in environmental protection and sustainable development matters and shall strengthen international scientific cooperation.

**CHAPTER V
ENVIRONMENTAL IMPACT ASSESSMENT**

Article 46. Requirement of Environmental Impact Assessment (EIA)

- a) Any development activity listed in Schedule A of this Proclamation, whether undertaken by the Government of Eritrea, national non-governmental organizations, the private sector, or international governmental or non-governmental organizations, shall require consideration of an environmental impact assessment. The Agency shall take all necessary measures to provide information concerning the requirement of consideration of an environmental impact assessment. All national governmental and non-governmental entities shall inform potential partners and investors in development projects of the requirement of consideration of an environmental impact assessment.
- b) any investor who desires the necessary clearance and approval by the Investment Centre shall submit either an impact clearance issued by the Agency, as provided in Article 42 (c)(1) of this Proclamation, or an environmental impact statement which has been approved by the Agency. The Investment Centre shall make known to prospective investors the requirement

of consideration of an environmental impact assessment.

- c) Any application submitted to the Business Licensing Office shall be accompanied by either an impact clearance issued by the Agency, as provided in Article 42 (c)(1) of this Proclamation, or by an environmental impact statement which has been approved by the Agency. The business Licensing Office shall make known to all applicants for a license the requirement of consideration of an environmental impact assessment.
- d) No license, permit, or approval required under any law shall be granted to anyone desiring to develop a project unless the provisions of this Chapter are complied with.
- e) any license, permit or approval granted shall include all obligations required to prevent or mitigate negative impacts identified in the environmental impact statement, and shall be part of the public record.
- f) Environmental impact assessment is the responsibility of the proponent, which bears all costs.

Article 47. project Brief

a) A proponent of any development activity listed in Schedule A of this Proclamation shall be required to submit a project brief to the Agency describing:-

- (1) the nature and scope of the project;
- (2) the site and area size of the project and the ecosystems that may be affected;
- (3) the activities to be carried out;
- (4) the proposed and anticipated results, products and effects of the project;
- (5) the cost of the project;
- (6) the number of people the project shall employ; and
- (7) any other information that may be required by regulations and guidelines issued by the Agency in accordance with this Proclamation.

b) The Agency shall make the project brief available to the public and shall allow adequate time for public comment.

c) If, after considering the project brief and all public comments received, the Agency, in consultation with the appropriate line ministry, considers that the proposed project:-

(1) will not have any adverse impact on the environment, it may issue an impact clearance;

(2) may have a significant impact on the environment, it shall require that the proponent prepare an environmental impact statement in accordance with the provisions of Articles 48 and 49 and Schedule B.

Article 48. Environmental Impact Statements (EIS)

The Agency shall issue guidelines for preparing environmental impact statements which shall, at a minimum, contain:-

- a) a description of the proposed project and the activities it is likely to generate;
- b) a description of potentially affected ecosystems and human communities, including specific information necessary for identifying and assessing the environmental effects of the proposed activity;
- c) a specification of the technology and processes that will be used;
- d) reasons for selecting the proposed site and rejecting alternative sites;
- e) environmental and social impacts of the proposed activity, including direct, indirect, cumulative, short-term and long-term effects and possible alternatives;
- f) an identification and description of measures proposed for eliminating, minimizing or mitigating anticipated adverse impacts;
- g) an identification of gaps in knowledge and uncertainties which were encountered in compiling the required information.
- (h) an indication of whether the environment of any other State or areas beyond the limits of national jurisdiction are likely to be affected, with proposed alternatives and mitigating measures;
- (i) a brief description of how the information presented in the environmental impact statement was generated; and
- (j) any other matter relevant to environmental impact assessment that the Agency may prescribe.

Article 49. Submission of Environmental Impact Statements

The proponent shall submit the environmental impact statement to the Agency. The environmental impact statement shall be a public document and be freely consulted

by an person. Copies of the environmental impact statement shall be provided subject to such fees as the Agency may prescribe.

Article 50. Confidential Information

On application of the proponent or on its own initiative, the Agency shall protect any confidential information contained in an environmental impact statement.

Article 51. Review of Environmental Impact Statements

The Agency shall review all environmental impact statements and:-

a) if it deems the environmental impact statement not to be complete, it shall return the environmental impact statement to the proponent, indicating the insufficiencies.

b) if it deems the environmental impact statement to be complete, it shall invite:-

(1) public comments on the environmental impact statement in general; and

(2) comments of those who are most likely to be affected by the project by specifically drawing attention to the contents of the environmental impact statement.

c) The Agency shall allow adequate time for response before approving or disapproving the environmental impact statement. The Agency shall evaluate the comments on the environmental impact statement by the public and those likely to be affected and, if it deems necessary:-

(1) request the concerned line ministries to review the comments and the environmental impact statement and provide the Agency with their observations and recommendations; and

(2) consolidate all comments, observations and recommendations.

Article 52. Decision of the Agency on Environmental Impact Statements and Recommendation for Project Approval or Disapproval

a) After due consideration of the environmental impact statement and all public comments on it, the Agency may:-

(1) approve the environmental impact statement if it is satisfied that the project will not have an adverse effect on the environment; or

(2) approve the environmental impact statement with a recommendation that the project be approved subject to specified mitigation measures; or

(3) require the proponent to redesign the project, taking into account all environmental factors and the comments made; or,

(4) reject the environmental impact statement if it has reasonable grounds to believe that the project may cause significant harm to the environment which cannot be mitigated.

b) The Agency shall issue its decision to the proponent. Where the proponent will apply to the Investment Center or to the business licensing Office for a license, permit or approval, the Agency shall forward a copy of its decision to the respective entity.

c) The approval or disapproval by the Agency shall be duly taken into account by the line ministry responsible for the final decision on project approval. Any mitigation measures recommended by the Agency shall be made a condition of the final decision. If the responsible authority does not follow the recommendations of the Agency, it shall make public a full justification of its decision.

Article 53. Timeliness of Agency Action

In carrying out all responsibilities assigned to it under this Chapter, the Agency shall act within a reasonable time or within a scheduled time frame prescribed by regulations adopted pursuant to this Proclamation.

Article 54. Conflict Resolution

a) Any conflict between the Agency and any project proponent, or among the Agency, any project proponent and any line ministry, shall be referred to the council for resolution.

b) Any project proponent may appeal a decision of any line ministry to the High Court.

Article 55. Post-EIA Auditing

a) In executing a project, the proponent shall ensure that all mitigation measures provided for in the license, permit, or approval are complied with.

b) The Agency shall carry out a periodic audit of each project to ensure that mitigation measures provided for in the license, permit or approval are complied with. The Agency may, as provided for in Part V. Chapter I of this Proclamation;-

(1) use inspectors;

(2) require that the proponent keep records and submit reports to the Agency at such periods as the Agency deems necessary, on compliance with the conditions and mitigation measures provided for in the license, permit or approval.

c) The proponent shall, within a specified period after the completion of the project or the commencement of its operations, undertake an initial environmental audit of the project and make a report to the Agency.

Article 56. Regulations

The Agency shall prepare and propose for adoption, regulations and guidelines for environmental impact assessment including, as necessary, those for:-

- a) preparing and commenting on project briefs;
- b) determining whether a proposed development activity may have a negative impact on the environment;
- c) content of the environmental impact statement;
- d) public comment;
- e) review of the environmental impact statement;
- f) post-EIA auditing;
- g) conflict resolution.

The Government may empower the Agency to promulgate any such regulations and guidelines.

PART FOUR

MANAGEMENT OF ENVIRONMENTAL QUALITY AND NATURAL RESOURCES

CHAPTER I

ENVIRONMENTAL QUALITY MANAGEMENT

Article 57. Establishment of Quality Criteria and Standards

Environmental quality criteria and standards shall be developed by the Agency in close consultation with line ministries and appropriate national entities such as business or industry associations as well as international institutions, shall be submitted to the Council for due con-

sideration, and adopted as legally-binding regulations or as guidelines, as appropriate. The Government may empower the Agency to promulgate any such regulations and guidelines.

Article 58. Basic Factors for Setting Environmental Standards and Quality Criteria

The establishment of environmental standards and quality criteria shall be based on current scientific knowledge, generally-accepted environmental management practices, and practical considerations specific to the particular socio-economic conditions and technological capacities of the State of Eritrea.

Article 59. Compliance with Standards

All new and existing activities having impacts on the environment shall be monitored so as to ensure compliance with quality standards and criteria prescribed in accordance with this Proclamation and any other laws, regulations and standards.

Article 60. Soil Quality

- a) All activities having significant impacts on soil quality shall be subject to license, permit or approval procedures which require prior environmental impact assessment, as provided in part Three, Chapter V of this Proclamation.
- b) The Agency, jointly with line ministries and in collaboration with relevant private sector entities, shall prepare and propose for adoption standards for:-

(1) arresting and preventing all forms of erosion and desertification;

(2) preserving soil and sub-soil from all forms of degradation.

c) Such standards shall be responsive to, and consistent with the characteristics of the eco-geographic regions of Eritrea as defined in the National Environmental Management Plan.

Article 61. Water Quality

- a) All activities, agricultural, industrial, or other, which involve significant water extraction or discharging of effluents or other wastes into water sources or water-courses, shall be subject to license, permit or approval procedures which require prior environmental impact assessment, as provided in part Three, Chapter V of this Proclamation.
- b) The Agency, jointly with the line ministries concerned, and in collaboration with relevant private

sector entities, shall prepare and propose for adoption standards for:-

- (1) water quality taking into account the respective uses of the water as in potable water and water for agricultural use;
- (2) domestic effluents/sewage;
- (3) industrial effluents;
- (4) procedures for recycling waster-water.

Article 62. Waste Management

- a) The import of toxic and hazardous wastes is prohibited.
- b) Collection, treatment and disposal of waste, including the location and administration of landfills and other waste disposal sites, shall be subject to license, permit or approval procedures which require prior environmental impact assessment, as provided in part Three, Chapter V of this Proclamation.
- c) The Agency, jointly with line ministries concerned, and in collaboration with relevant private sector entities, shall prepare and propose for adoption standards for:-
 - (1) domestic and industrial waste collection, treatment, and disposal;
 - (2) collection, treatment, and disposal of toxic and hazardous wastes.

Such standards shall ensure that all wastes are collected, treated and disposed of in an environmentally sound manner.

- d) The Agency, jointly with the line ministries concerned, shall develop policies and programmes to promote the reduction of amounts of wastes and the recycling of wastes.

Article 63. Toxic and Hazardous Substances

- a) The production, sale, distribution, import, export, or transit of toxic and hazardous substances, pesticides, and biological agents (e.g., living modified organisms, genetically modified organisms) within Eritrean jurisdiction or control, shall be subject to license, permit or approval procedures which require prior environmental impact assessment, as provided in Part Three, Chapter V of this Proclamation.
- b) The Agency, jointly with the line ministries concerned, shall develop a register of toxic and hazard-

ous substances and biological agents whose production, sale, distribution, transport, import or export are restricted or prohibited.

Article 64. Air Quality

- a) All activities which involve significant emissions into the atmosphere are subject to license, permit, or approval procedures which require prior environmental impact assessment, as provided in part Three, Chapter V of this Proclamation.
- b) The Agency, jointly with the concerned line ministries, and in collaboration with relevant private sector entities, shall prepare and propose for adoption standards for air quality including occupational air quality and permissible emissions from stationary and mobile sources.

Article 65. Ambient Quality

The Agency, jointly with the concerned line ministries, and in collaboration with relevant private sector entities, shall prepare and propose for adoption standards for permissible levels of noise, vibrations, odors and visual pollution.

CHAPTER II NATURAL RESOURCE MANAGEMENT

Article 66. Collaborative Management

- a) All natural resource management policies, programmes, and plans shall provide for collaborative management and for multiple use of natural resources, so as to ensure in real terms the involvement to local people in the management of natural resources.
- b) The Agency, jointly with the line ministries and local authorities concerned, shall prepare and adopt regulations establishing procedures for collaborative management of natural resources.

Article 67. Land Use Management

- a) Land use practices and strategies which arrest and prevent land degradation shall be adopted, particularly those governing cropping, grazing and harvesting of fuelwood and of timber for construction.
- b) The Agency shall coordinate with the line ministries concerned to develop land use plans consistent with the objectives of this Proclamation and the Land Proclamation No. 58/1994.
- c) Regulations shall provide that land use plans are to be developed taking into account the imperative

need to prepare strategies, plans and priority programmes to combat desertification.

- d) The Agency shall initiate appropriate measures for the development and improvement of the urban environment in consultation with the line ministries.

Article 68. Rehabilitation of Degraded Ecosystems

- a) Practices shall be adopted to promote rehabilitation of degraded ecosystems through:

- (1) natural succession; and
 - (2) active human intervention, including afforestation and reforestation.
- b) The Agency, jointly with the line ministries concerned, shall prepare and propose for adoption regulations providing for rehabilitation of degraded ecosystems, consistent with the characteristics of the eco-regions defined in the National Environmental Management Plan.

Article 69. Water Resource Management

- a) Practices for managing groundwater sources and watersheds shall be adopted to:-

- (1) preserve the quantity and quality of water resources;
 - (2) increase the efficiency and equity of distribution of scarce water resources.
- b) The Agency, jointly with the line ministries concerned, shall prepare regulations for watershed management, including all activities that potentially affect the equilibrium of watersheds, water courses, their beds and banks, and groundwater sources, and for monitoring water extraction and use.

Article 70. Integrated Coastal Zone Management

- a) The Integrated Coastal Zone Management (ICZM) approach shall be adopted to conserve the environment of the national marine and coastal areas and to promote and the sustainable development of the coastal zone and the optimal use of its resources.
- b) The Agency, jointly with the line ministries concerned, shall prepare regulations, consistent with this Proclamation, for implementing the principles of Integrated Coastal Zone Management in Eritrea; including provisions for:-

- (1) conservation and sustainable use of flora, fauna, marine and coastal habitats;

- (2) fisheries;
- (3) coastal zone development;
- (4) water security;
- (5) control of land-based sources of pollution;
- (6) mining, and oil and gas exploitation;
- (7) regulation of land-based and marine waste disposal;
- (8) prohibition of pollution by shipping industry;
- (9) development and promotion of tourism;
- (10) compliance with international standards and conventions acceded to or ratified by the State of Eritrea.

Article 71. Conservation and Sustainable Use of Biological Diversity

- a) Conservation and sustainable use of biological diversity shall be based on a comprehensive, systematic, and consistent approach, in consonance with international agreements to which the State of Eritrea is a Party.
- b) The Agency, jointly with the line ministries concerned, shall prepare regulations providing that practices, consistent with the principles of collaborative management, shall be established to manage natural resources so as to ensure conservation of biological diversity and the sustainable use of its components, including ecosystems, species, and genetic resources, whether within or outside protected areas.
- c) The Agency shall also take appropriate steps including regulatory measures, to regulate access to genetic resources which are an integral part of the natural wealth of the State of Eritrea.

Article 72. Establishment of Eritrean National Protected Areas System (ENPAS)

- a) This Proclamation endorses the national protected areas policy and practice of the Eritrean Peoples Liberation Front and integrates it into the Eritrean National Protected Areas System (ENPAS).
- b) Existing terrestrial and marine protected areas are integrated into the Eritrean National Protected Areas System.
- c) The Agency shall:-
- (1) jointly with relevant line ministries identify and establish new protected areas, taking into account the need

to protect Eritrea's natural and cultural heritage and to use natural resources sustainably;

(2) prepare the Eritrean National Protected Areas System Plan;

(3) coordinate with relevant line ministries to prepare management plans for each protected area;

(4) coordinate the implementation of the Eritrean National Protected Areas System and Plan;

(5) jointly with relevant line ministries where appropriate, prepare any regulations necessary for implementing the objectives of this Article.

Article 73. Shared Natural Resources and Transboundary Migratory Species

a) Bilateral and multilateral cooperation in the management of shared natural resources and transboundary migratory species shall be actively promoted by the State of Eritrea.

b) The Agency shall coordinate with the Ministry of Foreign Affairs to develop policies and, where authorized, negotiate bilateral and multilateral agreements for the effective protection and optimal use of shared natural resources and transboundary migratory species.

(1) conduct inspections and audits;

(2) take and analyze samples;

(3) compile and synthesize environmental data from all sectors and from all inspections and audits, including post-EIA monitoring.

Article 75. Monitoring and Assessment Procedures

The Agency shall establish operating procedures for the Eritrean Monitoring Assessment Network, which shall include provisions for:-

a) monitoring environmental quality;

b) monitoring the status of biodiversity;

c) environmental audits;

d) post-EIA auditing;

e) inspections.

Article 76. Monitoring and Enforcement Responsibility

a) In their respective sectors, line ministries shall be responsible for inspection, enforcement, and monitoring of compliance with environmental quality standards, the conduct of environmental audits, and monitoring of the status of biodiversity.

b) The Agency shall be responsible for coordinating overall monitoring of environmental quality and of the status of biodiversity, particularly in cases where two or more line ministries are involved.

c) Where a line ministry does not adequately monitor compliance with environmental quality standards and the status of biodiversity in its sector, the Agency is empowered to carry out all necessary sectoral monitoring, inspections and enforcement.

Article 77. Existing Activities

Activities existing at the date of entry into force of this Proclamation shall be monitored to ensure their compliance with the objectives and provisions of this Proclamation and any regulations and decisions adopted pursuant to it.

Article 78. Records

a) Line ministries, in coordination with the Agency, shall ensure that all enterprises and activities:-

PART FIVE

MONITORING, INSPECTION AND ENFORCEMENT

CHAPTER I

MONITORING AND INSPECTION

Article 74. Eritrean Monitoring and Assessment Network

a) The Eritrean Monitoring and Assessment Network (EMAN) is established as an environmental inspectorate within the Agency.

b) The Eritrean Monitoring and Assessment Network shall, in accordance with the provisions of this Proclamation:-

(1) establish and maintain appropriate on-site environmental records;

(2) issue appropriate environmental guidelines and requirements for internal operations.

b) Environmental records shall be available for:-

(1) environmental audits, including post-EIA audits;

(2) inspection;

(3) any other purpose that may be prescribed or required in accordance with this Proclamation and any other applicable laws, regulations and standards.

c) All enterprises and activities shall transmit complete copies of their environmental records to the Agency at such intervals as may be determined by the Agency.

Article 79. Regulations for Inspection and Analysis

The line ministries, in cooperation with the Agency, shall prepare and propose for adoption regulations establishing procedures for:-

a) hiring and training inspectors;

b) conducting inspections;

c) analysis of samples and specimens taken during inspections.

CHAPTER II ENFORCEMENT

Article 80. Measures to Ensure Compliance

a) Where there is a violation of the provisions of this Proclamation or of the regulations or decisions adopted pursuant to it, the enforcement authorities as provided for in this Proclamation shall take all measures necessary to ensure compliance. Such measures may specify conditions and timetable required for performance to achieve compliance.

b) Where the violation leads to or results in significant harm or imminent threat to significant harm to the environment, the enforcement authorities may issue an order to the violator to cease the activity which causes the harm or threat of harm.

c) The costs of such measures shall be borne by the violator.

Article 81. Remedies

The Party on which compliance measures are imposed in accordance with Article 80 of this Proclamation may present such measures for review by the Council or the High Court.

Article 82. Civil Actions

a) Natural and legal persons, or communities, or groups with a common interest affected by a violation may require enforcement authorities to impose necessary compliance measure on a violator.

b) Where the enforcement authorities fail within a reasonable time to impose compliance measures on a violator, the affected persons or communities or groups may bring a legal action in the High Court against the enforcement authorities.

Article 83. Civil Liability

Anyone who by act or omission causes damage to the environment or injury to other persons resulting from damage to the environment shall be liable.

Article 84. Administrative Fines

a) Violations of the provisions of this Proclamation and of the regulations or decisions adopted pursuant to it, shall be sanctioned by administrative fines not exceeding ___Birr.

b) The enforcement authority imposing the fine shall take into account the nature of the provision violated as well as the economic and social conditions of the violator.

c) Fines shall be imposed only after all other measures necessary to ensure compliance have been exhausted and have failed.

Article 85. Criminal Offenses

a) Violations of the provisions of this Proclamation and of the regulations or decisions adopted pursuant to it which threaten or cause grave harm to the environment, and the persistent disregard of administrative measures to ensure compliance, including the imposition of fines, are criminal offenses and subject to fines not exceeding ___Birr, or imprisonment not exceeding ___years, or both.

b) Aggravated offenses shall be subject to fines not exceeding ___Birr, or imprisonment not exceeding ___years, or both.

____ years, or both. Aggravating factors are intent and repeated or habitual violation.

- c) In addition to the fines provided in subparagraphs (a) and (b) above, the court may order that the convicted offender restore to its original state and at his own cost the environment to which the harm was caused.
- d) The criminal penalties provided in subparagraphs (a) and (b) above shall be imposed only after all administrative measures to ensure compliance, including the imposition of fines, have been exhausted and have failed.

Article 86. Personal Responsibility

- a) Where an offense is committed by a corporation, the corporation and every director or officer of the corporation who had knowledge or should have had knowledge of the commission of the offense, and who did not exercise all due diligence to prevent the offense, shall be responsible.
- b) Where an offense is committed by a partnership, every partner or officer of the partnership who had or should have had knowledge of the commission of the offense, and who did not exercise all due diligence to prevent the offense, shall be responsible.
- c) A person shall be responsible for any offense, whether committed by him on his own account or as an agent or servant of another person.

Article 87. Immunity

No civil action or criminal prosecution or other legal

action or proceeding may be initiated against the Council, the Agency, the Executive Director, any line ministry, any inspector, any analyst or recognized official in his/her personal capacity for anything done in good faith under the provisions of this Proclamation or regulations and decisions issued pursuant to it.

PART SIX

MISCELLANEOUS PROVISIONS

Article 88. Power to Adopt Regulations

Upon recommendation of the Agency and with the endorsement of the Council, the Government shall adopt any regulations necessary for the effective implementation of the provisions and objectives of this Proclamation. The Government may empower the Agency to issue any such regulations, after their prior endorsement by the Council.

Article 89. Inconsistent Laws and Regulations

Any law or regulation in force which is inconsistent with the provisions and objectives of this Proclamation shall as of the date of coming into force of this Proclamation, cease to apply to the extent of such inconsistency.

Article 90. Effective Date

This Proclamation shall enter into force on the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara [No date] 1996

Government of Eritrea

SCHEDULE A

Projects to be considered for environmental impact assessment

1. Urban development, including:-

- a) land use plans
- b) designation of new towns, villages and residential areas
- c) establishment of industrial estates
- d) establishment or expansion of recreational areas
- e) shopping centers and complexes
- f) hotels and other tourist facilities

2. Transportation, including:-

- a) all major roads
- b) all roads in protected areas
- c) bridges
- d) railway lines
- e) airports and airfields
- f) pipelines
- g) water transport
- h) ports and landing sites

3. Dams, rivers and water resources, including:-

- a) storage dams
- b) river diversions and water transfers between catchments
- c) flood-control schemes
- d) drilling for the purpose of utilizing ground water resources, including geothermal

4. Aerial Spraying

5. Fisheries, especially large-scale commercial projects

6. Mining, including quarrying and open-pit extraction of:-

- a) precious metals
- b) diamonds
- c) metalliferous ores

- d) phosphates
- e) limestone and dolomite
- f) stone and slate
- g) aggregates sand, gravel and laterite
- h) clay
- i) exploration for the production of petroleum in any form
- j) off-shore activities

7. Forestry-related activities, including:-

- a) timber harvesting
- b) reforestation and afforestation

8. Agriculture, including:-

- a) large-scale agriculture
- b) use of new pesticide
- c) use of new fertilizer
- d) shift from rain-fed agriculture to irrigated agriculture

9. Processing and manufacturing industries, including:-

- a) mineral processing, reduction of ores and minerals
- b) smelting and refining of ores
- c) foundries
- d) brick and earthenware manufacture
- e) cement works and lime processing
- f) glass works
- g) fertilizer manufacture or processing
- h) explosives plants
- i) oil refineries and petrochemical works
- j) tanning and dressing of hides and skins
- k) abattoirs and meat-processing plants
- l) chemical works and processing plants
- m) brewing and malting plants

- n) bulk grain processing plants
- o) fish processing plants
- p) pulp and paper mills
- q) food processing plants
- r) plants for the manufacture or assembly of motor vehicles
- s) plants for the construction or repair of aircraft or railway equipment
- t) plants for the manufacture or assembly of motor vehicles
- u) plants for the manufacture of tanks, reservoirs, and sheet-metal containers
- v) plants for the manufacture of plastics
- w) mechanical workshops

10. Electrical infrastructure, including:-

- a) electricity generation stations
- b) high-voltage electrical transmission lines
- c) electrical substations
- d) pumped storage schemes

11. Management of hydrocarbons, including the storage of natural gas and combustible or explosive fuels

12. Waste disposal, including:-

- a) sites for solid waste disposal
- b) sites for hazardous waste disposal
- c) sewage disposal works
- d) major atmospheric emissions
- e) offensive odors

13. Conservation of biological diversity, including:-

- a) establishment of protected areas
- b) formulation or modification of forest management policies and plans
- c) formulation or modification of water catchment management policies and plans
- d) policies and plans for management of ecosystems, especially by use of fire
- e) commercial exploitation of natural fauna
- f) introduction of alien species of fauna and flora into ecosystems

- g) formulation or modification of grazing management policies
- h) formulation or modification of integrated coastal zone management policies and plans
- i) applications for access to genetic resources

SCHEDULE B

Issues to be considered in the process of environmental impact assessment

1. Ecological considerations, in particular effects on conservation of biological diversity:-

- a) number, diversity, breeding habits, etc. of wild animals and vegetation
- b) gene pools of domesticated plants and animals
- c) habitats of endangered species

2. Sustainable use of natural resources, including effects on:-

- a) soil fertility and desertification
- b) breeding populations of fish and game
- c) natural regeneration and sustainable yield of all natural vegetation systems

3. Ecosystem maintenance, including effects on:-

- a) food chains
- b) nutrient cycles
- c) aquifer recharge, water run-off rates, etc.
- d) extent of habitats

4. Social considerations, including effects on:-

- a) generation or reduction of employment in the area
- b) social cohesion or disruption
- c) human health
- d) immigration or emigration
- e) communication - roads opened up, closed, re-routed
- f) local economy

5. Landscape, including:-

- a) views opened up or closed
- b) visual impacts (removal or vegetation, etc.)
- c) compatibility with surrounding areas
- d) amenities opened up or closed, e.g., recreation possibilities

6. Land use, including effects on:-

- a) current land uses and land use potential in the project area;
- b) possibility of multiple use;
- c) surrounding land uses and potential land use.

MOZAMBIQUE

Lei nº/97 de 1997

A Constituição do nosso País confere a todos os cidadãos o direito de viver num ambiente equilibrado, assim, como o dever de o defender. A materialização deste direito passa necessariamente por uma gestão correcta do ambiente e dos seus componentes e pela criação de condições propícias à saúde e ao bem-estar das pessoas, ao desenvolvimento sócio-económico e cultural das comunidades e à preservação dos recursos naturais que as sustentam.

Nestes termos e ao abrigo do nº1 do Artigo 135 da Constituição da República de Moçambique, a Assembleia da República determina:

CAPÍTULO I

DISPOSIÇÕES GERAIS

Artigo 1 (DEFINIÇÕES)

Para efeitos da presente Lei:

1. **ACTIVIDADE:** é qualquer acção, de iniciativa pública ou privada, relacionada com a utilização ou a exploração de componentes ambientais, a aplicação de tecnologias ou processos produtivos, planos, programas, actos legislativos ou regulamentares, que afecta ou pode afectar o ambiente;

2. **AMBIENTE:** é o meio em que o Homem e outros seres vivem e interagem entre si e com o próprio...eio, e inclui:

- a) o ar, a luz, a terra e a água;
- b) os ecossistemas, a biodiversidade e as relações ecológicas;
- c) todas as matéria orgânica e inorgânica;

d) todas as condições sócio-culturais e económicas que afectam vida das comunidades.

3. **ASSOCIAÇÕES DE DEFESA DO AMBIENTE:** São pessoas colectivas que têm como objecto a protecção, a conservação e a valorização dos componentes ambientais. Estas associações poderão ter âmbito internacional, nacional, regional ou local.

4. **AUDITORIA AMBIENTAL:** é instrumento de gestão e de avaliação sistemática, documentada e objectiva do funcionamento e organização de sistema de gestão e dos processos controlo e protecção do ambiente.

5. **AVALIAÇÃO DO IMPACTO AMBIENTAL:** é um instrumento da gestão ambiental preventiva e consiste na identificação e análise prévia, qualitativa e quantitativa, dos efeitos ambientais benéficos e perniciosos de uma actividade proposta.

6. **BIODIVERSIDADE:** é a variedade e variabilidade entre os organismos vivos de todas as origens, incluindo, entre outros, os ecossistemas terrestres, marinhos e outros ecossistemas aquáticos, assim; como os complexos ecológicos dos quais fazem parte; compreende a diversidade dentro de cada espécie, entre as espécies e de ecossistemas.

7. **COMPONENTES AMBIENTAIS:** são os diversos elementos que integram o ambiente e cuja interacção permite o seu equilíbrio, incluindo o ar, a água, o solo, o subsolo, a flora, a fauna e todas as condições socio-económicas e de saúde que afectam as comunidades; são também designados correntemente por recursos naturais.

8. **DEGRADAÇÃO DO AMBIENTE:** é a alteração adversa das características do ambiente, e inclui, entre outras, a poluição, a desertificação, a erosão e o deflorestamento.

9. **DEFLORESTAMENTO:** é a destruição ou abate indiscriminado de matas e florestas sem a reposição devida.

10. **DESENVOLVIMENTO SUSTENTÁVEL:** é o

desenvolvimento baseado numa gestão ambiental que satisfaz as necessidades da geração presente sem comprometer o equilíbrio do ambiente e a possibilidade de as gerações futuras satisfazerem também as suas necessidades.

11. **DESERTIFICAÇÃO:** é um processo de degradação do solo, natural ou provocado pela remoção da cobertura vegetal ou utilização predatória que, devido a condições climáticas, acaba por transformalo num deserto.

12. **ECOSSISTEMA:** é um complexo dinâmico de comunidades vegetais, animais e de microorganismos, e o seu ambiente não vivo, que interage como uma unidade funcional.

13. **EROSÃO:** é o desprendimento da superfície do solo pela acção natural dos ventos ou das águas, que muitas vezes é intensificado por praticas humanas de retirada de vegetação.

14. **ESTUDO DE IMPACTO AMBIENTAL:** é a componente do processo de avaliação do impacto ambiental que analisa técnica e cientificamente as consequências da implantação de actividades de desenvolvimento sobre o ambiente.

15. **GESTÃO AMBIENTAL:** é o maneo e a utilização racional e sustentável dos componentes ambientais, incluindo o seu reuso, reciclagem, protecção e conservação.

16. **IMPACTO AMBIENTAL:** é qualquer mudança do ambiente, para melhor ou para pior, especialmente efeitos no ar, na terra, na água e na saúde das pessoas, resultante de actividades humanas.

17. **LEGISLAÇÃO AMBIENTAL:** abrange todo e qualquer diploma legal que rege a gestão do ambiente.

18. **LEGISLAÇÃO SECTORIAL:** são os diplomas legais que regem um compopnente ambiental específico.

19. **PADRÕES DE QUALIDADE AMBIENTAL:** São os níveis de admissíveis concentração de poluentes prescritos por lei para os componentes ambientais com vista a adequá-los a determinado fim.

20. **PERITAGEM AMBIENTAL:** é a investigação realizada por um grupo integrado por especialistas de, idoneidade e reputação reconhecidas, com vista a avaliar a gravidade e custos dos danos causados ao ambiente.

21. **POLUIÇÃO:** é a deposição no ambiente de substâncias ou resíduos, independentemente da sua forma, bem como a emissão de luz, som e outras formas de energia, de tal modo e em quantidade tal que o afecta negativamente.

22. **QUALIDADE DO AMBIENTE:** é o equilíbrio e a sanidade do ambiente, incluindo a adequabilidade dos seus componentes às necessidades do homem e de outros seres vivos;

23. **LIXOS OU RESÍDUOS PERIGOSOS:** são substâncias ou objectos que se eliminam, que se tem a intenção de eliminar, ou que se é obrigado por lei a eliminar, e que contêm características de risco por serem inflamáveis, explosivos, corrosivos, tóxicos, infecciosos ou radioactivos, ou por apresentarem qualquer outra característica que constitua périgo para a vida ou saúde do homem e de outros seres vivos para a qualidade do ambiente.

24. **ZONAS HÚMIDAS:** são áreas de pântano, brejo, turfeira ou água, natural ou artificial, permanente ou temporaria, parada ou corrente, doce, salobra ou salgada, incluindo as águas do mar cuja profundidade na mare baixa não excede seis metros, que sustentam a vida vegetal ou animal que requeira condições de saturação aquática do solo.

Artigo 2 (OBJECTO)

A presente lei tem como objecto a definição das bases legais para uma utilização e gestão correctas do ambiente e seus componentes, com vista à materialização de um sistema de desenvolvimento sustentável no país.

Artigo 3 (ÂMBITO)

A presente lei aplica-se a todas as actividades públicas ou privadas que directa ou indirectamente possam influir nos componentes ambientais.

Artigo 4 (PRINCÍPIOS FUNDAMENTAIS)

A gestão ambiental basea-se em princípios fundamentais, decorrentes do direito de todos os cidadãos a um ambiente ecologicamente equilibrado, propício a sua saúde e ao seu bem-estar físico e mental, nomeadamente:

1. Da utilização e gestão racionais dos componentes ambientais, com vista à promoção da melhoria da qualidade de vida dos cidadãos e à manutenção da biodiversidade e dos ecossistemas.

2. Do reconhecimento e valorização das tradições e do saber das comunidades locais que contribuam para a conservação e preservação dos recursos naturais e do ambiente.

3. Da precaução, com base no qual a gestão do ambiente deverá priorizar o estabelecimento de sistemas de prevenção de actos lesivos ao ambiente, de modo a evitar a ocorrência de impactos ambientais negativos significativos ou irreversíveis, independentemente da existência de certeza científica sobre a ocorrência de tais impactos.

4. Da visão global e integrada do ambiente, como um conjunto de ecossistemas interdependentes, naturais e construídos, que devem ser geridos de maneira a manter o seu equilíbrio funcional sem exceder os seus limites intrínsecos.

5. Da ampla participação dos cidadãos, como aspecto crucial da execução da Programa Nacional de Gestão Ambiental.

6. Da igualdade, que garante oportunidades iguais de acesso e uso de recursos naturais a homens e mulheres.

7. Da responsabilização, com base no qual quem polui ou de qualquer outra forma degrada o ambiente, tem sempre a obrigação de reparar ou compensar os danos daí decorrentes.

8. Da cooperação internacional, para a obtenção de soluções harmoniosas dos problemas ambientais, reconhecidas que são as suas dimensões transfronteiriças e globais.

a) pronunciar-se sobre as políticas sectoriais relacionadas com a gestão de recursos naturais;

b) emitir parecer sobre propostas de legislação complementar à Lei Quadro do Ambiente, incluindo as propostas criadoras ou de revisão de legislação sectorial relacionada com a gestão de recursos naturais do país;

c) pronunciar-se sobre as propostas de ratificação de convenções internacionais relativas ao ambiente;

d) elaborar propostas de criação de incentivos financeiros ou de outra natureza para estimular os agentes económicos para a adopção de procedimentos ambientalmente sãos na utilização quotidiana dos recursos do país.

e) propor mecanismos de simplificação e agilização do processo de licenciamento de actividades relacionadas com o uso de recursos naturais;

f) formular recomendações aos ministros das diversas áreas de gestão de recursos naturais sobre aspectos relevantes das respectivas áreas;

g) servir como foro de resolução de diferendos institucionais relacionados com a utilização e gestão de recursos naturais;

h) exercer as demais funções que lhe forem cometidas pela presente lei e pela demais legislação ambiental.

2. A composição e o funcionamento do Conselho Nacional de Desenvolvimento Sustentável serão regulados por decreto do Conselho de Ministros.

CAPÍTULO II

ORGAOS DE GESTÃO AMBIENTAL

Artigo 5 (ORGÃOS CENTRAIS)

1. Cabe ao Governo elaborar e executar o Programa Nacional de Gestão Ambiental.

2. Com vista a garantir-se uma efectiva e correcta coordenação e integração dos princípios e das actividades de gestão ambiental no processo de desenvolvimento do país é criado o Conselho Nacional de Desenvolvimento Sustentável.

3. O Conselho Nacional de Desenvolvimento Sustentável é um órgão consultivo do Conselho de Ministros, e servirá também como foro de auscultação da opinião pública sobre questões ambientais.

Artigo 6

1. São competências do Conselho Nacional de Desenvolvimento Sustentável:

Artigo 7 (ÓGÃOS LOCAIS)

A nível local serão criados serviços responsáveis pela implementação da presente lei, os quais garantirão a coordenação da acção ambiental a esse nível e a descentralização na sua execução, de modo a permitir um aproveitamento adequado das iniciativas e conhecimentos locais.

Artigo 8 (PARTICIPAÇÃO PÚBLICA NA GESTÃO DO AMBIENTE)

É obrigação do governo criar mecanismos adequados para envolver os diversos sectores da sociedade civil, comunidades locais, em particular as associações de defesa do ambiente, na elaboração de políticas e legislação relativa à gestão dos recursos naturais do país, assim como

no desenvolvimento das actividades de implementação do Programa Nacional de Gestão Ambiental.

envolvimento adequado das comunidades, em particular as associações de defesa do ambiente.

CAPITULO III

PULUIÇÃO DO AMBIENTE

Artigo 9 (PROIBIÇÃO DE POLUIR)

1. Não é permitida, no território nacional, a produção, o depósito no solo e no subsolo, o lançamento para a água ou para a atmosfera, de quaisquer substâncias tóxicas e poluidoras, assim como a prática de actividades que acelerem a erosão, a desertificação, o deflorestamento, ou qualquer outra forma de degradação do ambiente, fora dos limites legalmente estabelecidos.

2. É expressamente proibida a importação para o território nacional de resíduos ou lixos perigosos, salvo o que vier estabelecido em legislação específica.

Artigo 10 (PADRÕES DE QUALIDADE AMBIENTAL)

1. O governo deverá estabelecer padrões de qualidade ambiental, de modo a assegurar uma utilização sustentável dos recursos do país.

2. Na definição dos padrões de qualidade ambiental, serão igualmente estabelecidas normas e prazos para a adequação dos processos agrícolas e industriais, às máquinas e aos meios de transporte, de dispositivos ou processos adequados para reter ou neutralizar substâncias poluidoras.

CAPÍTULO IV

MEDIDAS ESPECIAIS DE PROTECÇÃO DO AMBIENTE

Artigo 11 (PROTECÇÃO DO PATRIMÓNIO AMBIENTAL)

O governo deverá assegurar que o património ambiental, especialmente o histórico e cultural, seja objecto de medidas permanentes de defesa e valorização, com o

Artigo 12 (PROTECÇÃO DA BIODIVERSIDADE)

1. São proibidas todas as actividades que atentem contra a conservação, reprodução, qualidade e quantidade dos recursos biológicos, especialmente os ameaçados de extinção.

2. O governo assegurará que sejam tomadas medidas adequadas com vista à:

- a) manutenção e regeneração de espécies animais, recuperação de habitats danificados e criação de novos habitats, controlando-se especialmente as actividades ou o uso de substâncias susceptíveis de prejudicar as espécies faunísticas e os seus habitats;
- b) protecção especial das espécies vegetais ameaçadas de extinção ou dos exemplares botânicos, isolados ou em grupo que, pelo seu potencial genético, porte, idade, raridade, valor científico e cultural, o exijam.

Artigo 13 (ÁREAS DE PROTECÇÃO AMBIENTAL)

1. A fim de assegurar a protecção e preservação dos componentes ambientais, bem como a manutenção e melhoria de ecossistemas de reconhecido valor ecológico e sócio-económico, o governo estabelecerá áreas de protecção ambiental devidamente sinalizadas.

2. As áreas protegidas poderão ter âmbito nacional, regional, local ou ainda internacional, consoante os interesses que procuram salvaguardar e poderão abranger áreas terrestres, águas lacustres, fluviais ou marítimas e outras zonas naturais distintas.

3. As áreas de protecção ambiental serão submetidas a medidas de classificação, conservação e fiscalização, as quais devem ter sempre em consideração a necessidade de preservação da biodiversidade, assim como dos valores de ordem social, económica, cultural, científica e paisagística.

4. As medidas referidas no número anterior deverão incluir a indicação das actividades permitidas ou proibidas no interior das áreas protegidas e nos seus arredores, assim como a indicação do papel das comunidades locais na gestão destas áreas.

Artigo 14 (IMPLANTAÇÃO DE INFRAESTRUTURAS)

1. É proibida a implantação de infraestruturas habitacionais ou para outro fim que, pela sua dimensão,

natureza ou localização, provoquem um impacto negativo significativo sobre o ambiente, o mesmo se aplicando á deposição de lixos ou materiais usados.

2. A proibição inserida no número anterior aplica-se especialmente á zona costeira, às zonas ameaçadas de erosão ou desertificação, às zonas húmidas, às áreas de protecção ambiental e a outras zonas ecologicamente sensíveis.

3. Serão estabelecidas por regulamento as normas para a implantação de infraestruturas nas áreas referidas no número anterior. Será igualmente regulamentada a implantação de infraestruturas nas áreas que circundam as rodovias, as ferrovias, as barr...., os portos e aeroportos, entre outros, de modo a que se não prejudique seu funcionamento, a sua possibilidade de expansão, assim como a harmonia da paisagem.

CAPÍTULO V

PREVENÇÃO DE DANOS AMBIENTAIS

Artigo 15 (LICENCIAMENTO AMBIENTAL)

1. O licenciamento e o registo dans actividades que pela sua natureza, localização ou dimensão, sejam susceptíveis de provocar impactos significativos sobre o ambiente, serão feitos de acordo com o regime a estabelecer pelo governo, por regulamento específico.

2. A emissão da licença ambiental será baseada numa avaliação do impacto ambiental da proposta de actividade, e precederá a emissão de quaisquer outras licenças legalmente exigidas para cada caso.

Artigo 16 (AVALIAÇÃO DO IMPACTO AMBIENTAL)

1. A avaliação do impacto ambiental terá como base um estudo de impacto ambiental a ser realizado por entidades credenciadas pelo governo.

2. Os moldes da avaliação do impacto ambiental para cada caso, assim como as demais formalidades, serão indicados em legislação específica.

Artigo 17 (CONTEÚDO MÍNIMO DO ESTUDO DO IMPACTO AMBIENTAL)

O estudo do impacto ambiental, compreenderá, no mínimo, a informação seguinte:

- a) um resumo não técnico do projecto;
- b) descrição da actividade a desenvolver;
- c) situação ambiental do local de implantação da actividade;
- d) modificações que a actividade provocará nos diferentes componentes ambientais existentes no local;
- e) medidas previstas para suprimir ou redúzir os efeitos negativos da actividade sobre a qualidade do ambiente;
- f) sistemas previstos para o controle e monitorização da actividade.

Artigo 18 (AUDITORIAS AMBIENTAIS)

1. Todas as actividades que à data dá entrada em vigor desta lei se encontrem em funcionamento sem a aplicação de tecnologias ou processos apropriados e, por consequência disso, resultam ou podem resultar em danos para o ambiente, serão objecto de auditorias ambientais.

2. Os custos decorrentes da reparação dos danos ambientais eventualmente constatados pela auditoria são da responsabilidade dos empreendedores.

CAPÍTULO VI

DIREITOS E DEVERES DOS Cidadãos

Artigo 19 (DIREITO À INFORMAÇÃO)

Todas as pessoas têm a direito de acesso à informação relacionada com a gestão do ambiente do país, sem

prejuízo dos direitos de terceiros legalmente protegidos.

Artigo 20
(DIREITO À EDUCAÇÃO)

Com vista a assegurar uma correcta gestão do ambiente e a necessária participação das comunidades, o governo deverá criar, em colaboração com os órgãos de comunicação social, mecanismos e programas para a educação ambiental formal e informal.

Artigo 21
(DIREITO DE ACESSO À JUSTIÇA)

1. Qualquer cidadão que considere terem sido violados os direitos que lhe são conferidos por esta lei, ou que considere que existe ameaça de violação dos mesmos, pode recorrer as instâncias jurisdicionais para obter a reposição dos seus direitos ou a prevenção da sua violação.
2. Qualquer pessoa que, em consequência da violação das disposições da legislação ambiental, sofra ofensas pessoais ou danos patrimoniais, incluindo a perda de colheitas ou de lucros, poderá processar judicialmente o autor dos danos ou da ofensa e exigir a respectiva reparação ou indemnização.
3. As acções legais referidas nos números 1 e 2 deste artigo seguirão os termos processuais adequados.
4. Compete ao Ministério Público a defesa dos valores ambientais protegidos por esta lei, sem prejuízo da legitimidade dos lesados para propor as acções referidas na presente lei.

Artigo 22
(EMBARGOS)

Aqueles que se julguem ofendidos nos seus direitos a um ambiente ecologicamente equilibrado poderão requerer a suspensão imediata da actividade causadora da ofensa, seguindo-se, para tal efeito, o processo do embargo administrativo ou outros meios processuais adequados.

Artigo 23
(OBRIGAÇÃO DE PARTICIPAÇÃO DE
INFRACÇÕES)

Qualquer pessoa que verifique infracções às disposições desta lei ou de qualquer outra legislação ambiental, ou

que razoavelmente presuma que tais infracções estejam na iminência de ocorrer, tem a obrigação de informar as autoridades policiais ou outros agentes administrativos mais próximos sobre o facto.

Artigo 24
(OBRIGAÇÃO DE UTILIZAÇÃO RESPONSÁVEL
DOS RECURSOS)

Todas as pessoas têm a obrigação de utilizar os recursos naturais de forma responsável e sustentável, onde quer que se encontrem e independentemente do fim, assim como o dever de encorajar as outras pessoas a proceder do mesmo modo.

CAPÍTULO VII

RESPONSABILIDADES, INFRACÇÕES E SANÇÕES

Artigo 25
(SEGURO DE RESPONSABILIDADE CIVIL)

Todas as pessoas que exerçam actividades que envolvam elevado risco de degradação do ambiente, e assim classificadas pela legislação sobre a avaliação do impacto ambiental, deverão segurar a sua responsabilidade civil.

Artigo 26
(RESPONSABILIDADE OBJECTIVA)

1. Constituem-se na obrigação de pagar uma indemnização aos lesados todos aqueles que, independentemente de culpa e da observância dos preceitos legais, causarem danos significativos ao ambiente ou provocarem a paralisação temporária ou definitiva de actividades económicas, como resultado da prática de actividades especialmente perigosas.
2. Compete ao governo supervisionar a avaliação da gravidade dos danos e a fixação do seu valor, que serão efectuadas por via de uma peritagem ambiental.
3. Sempre que as circunstâncias o exigirem, o Estado tomará as medidas necessárias para prevenir, conter ou eliminar qualquer dano grave ao ambiente, gozando, contudo, do direito de regresso pelos custos suportados.

Artigo 27
(CRIMES E CONTRAVENÇÕES AMBIENTAIS)

As infracções de carácter criminal, bem como as contravenções, relativas ao ambiente, serão objecto de previsão em legislação específica.

CAPÍTULO VIII

FISCALIZAÇÃO AMBIENTAL

Artigo 28
(AGENTES DE FISCALIZAÇÃO AMBIENTAL)

O Governo criara, em termos a regulamentar, um corpo de agentes de fiscalização ambiental competentes para velar pela implementação da legislação ambiental e para a tomada das providências necessárias para prevenir a violação das suas disposições.

Artigo 29
(DEVER DE COLABORAÇÃO)

Todas as pessoas encarregues de uma actividade ou lugar sujeito à fiscalização deverão colaborar com os agentes de fiscalização na realização das suas actividades.

Artigo 30
(PARTICIPAÇÃO DAS COMUNIDADES)

Com vista a garantir a necessária participação das comunidades locais e a utilizar adequadamente os seus conhecimentos e recursos humanos, o governo, em coordenação com as autoridades locais, promoverá a criação de agentes de fiscalização comunitários.

CAPÍTULO IX

DISPOSIÇÕES FINAIS

Artigo 31
(INCENTIVOS)

O governo criará incentivos económicos ou de outra natureza com vista a encorajar a utilização de tecnologias e processos produtivos ambientalmente sãos.

Artigo 32
(LEGISLAÇÃO SECTORIAL)

1. A legislação existente que foge a gestão dos componentes ambientais deverá ser ajustada às disposições da presente lei.
2. Na regulamentação da presente lei compete ao governo fixar os prazos para que os projectos já autorizados e os empreendimentos em curso que contrariem os dispositivos da presente lei sejam a esta ajustados.

Artigo 33
(LEGISLAÇÃO COMPLEMENTAR)

1. Cabe ao governo adoptar as medidas regulamentares necessárias à efectivação da presente lei.
2. Na regulamentação à presente lei, compete ao governo fixar os prazos para que os projectos já autorizados e os empreendimentos em curso que contrariem os dispositivos da presente lei, sejam a esta ajustados.

Artigo 34
(VIGÊNCIA)

A presente lei entra em vigor 60 dias após a sua publicação no Boletim da República.

Aprovada pela Assembleia da República
O Presidente da Assembleia da República
Eduardo Joaquim Mulémbwè
Promulgada em de de 1997
Publique-se
O Presidente da República
Joaquim Alberto Chissano

NIGERIA

Federal Environmental Protection Agency Act, CAP 131, LFN, 1990 (as amended) by Decree No. 59 of 1992.

Decree No. 59

ARRANGEMENTS OF SECTIONS

Section

PART I - ESTABLISHMENT, GOVERNING COUNCIL, FUNCTIONS AND POWERS OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY

1. Establishment of the Federal Environmental Protection Agency.
2. Governing Council of the Agency.
- 2A. Establishment and Functions of the Technical Committee.
3. Removal from the office of member of the Agency.
4. Functions of the Agency.
5. Powers of the Agency to give grants, etc.
6. Power of the President, Commander-in-Chief of Armed Forces to give directions.
7. Director-General and other staff of the Agency.
8. Pensions.
9. Powers of the Director-General.
10. Power to accept gifts, etc.
11. Residences, offices and premises.
12. Financial provisions.
13. Borrowing power.
14. Annual estimates, accounts and audit.

PART II - NATIONAL ENVIRONMENTAL STANDARDS

Water quality

15. Federal water quality standards.
16. Effluent limitations.

Air quality and atmospheric protection

17. Air quality, etc.
18. Ozone protection.

Noise

19. Noise control.

Hazardous substances

20. Discharge of hazardous substances.
21. Spiller's liability.
22. Removal methods, etc.
23. Co-operation with Federal Ministry of Petroleum Resources Department.

PART III - ESTABLISHMENT OF STATE AND LOCAL GOVERNMENT ENVIRONMENTAL PROTECTION BODIES

24. Establishment of State and Local Government Bodies.

PART IV - SUPPLEMENTARY AND MISCELLANEOUS

Enforcement powers

25. Powers to inspect, etc.

- | | |
|--|---|
| 26. Powers to search, seize and arrest. | <i>General penalties and legal proceedings.</i> |
| 27. Obstruction of authorised officers. | 34. Material misrepresentation and impersonation. |
| 28. Authorised officers to disclose identity. | 35. General penalties. |
| 29. Procedure in respect of suits against the Agency. | 36. Companies and firms liable. |
| 30. Service of documents. | <i>Miscellaneous</i> |
| 31. Restriction on execution against the property of the Agency. | 36A. Delegation of functions |
| 32. Indemnity of members and employees of the Agency. | 36B. Repeal etc. Cap 286 LFN. |
| 33. Annual report. | 37. Power to make regulations. |
| | 38. Interpretation. |
| | 39. Short title. |

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE AGENCY

An Act to establish the Federal Environmental Protection Agency with its functions and the powers for the effective implementation of such functions. [1988 No. 58, 1992 No. 59].

Decree No. 59

[30th December 1988] Commencement

PART I

ESTABLISHMENT, GOVERNING COUNCIL, FUNCTIONS AND POWERS OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

Establishment of the Federal Environmental Protection Agency

1. (1) There is hereby established a body to be known as the Federal Environmental Protection Agency (hereinafter in this Act referred to as "the Agency") which under that name shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name. [Decree No. 58, 1988]

(2) The Agency shall be an integral part of the Presidency. [Decree No. 59 of 1992]

Governing Council of the Agency

2. (1) There shall be as the governing body of the Agency, a Council which shall consist of the Secretary to Government of the Federation as Chairman and the following other members, that is:

(a) the Minister, charged with the responsibility for:

- (i) Agriculture, Water Resources and Rural Development,
- (ii) Finance,
- (iii) Health and Human Services,
- (iv) Industries and Technology,
- (v) Petroleum and Mineral Resources,
- (vi) Works and Housing,
- (vii) Transport and Communications,

(viii) Education and Youth Development; and

(b) two other members from the private sector who have distinguished themselves in environmental matters.

(2) Where the Minister is unable to attend a meeting of the Council, the Director-General of the Ministry concerned may represent him at the meeting.

(3) The Chairman of the Technical Committee established under section 2A of this Act shall also be an ex-officio member of the Council.

Establishment and functions of the Technical Committee

2A. -(1) There is hereby established for the Agency, a Technical Committee to be known as the Federal Environmental Protection Agency Technical Committee (in this Act referred to as "the Technical Committee"). [Decree No. 59, 1992]

(2) The Technical Committee shall consist of the following members, that is:

- (a) A Chairman who shall be the Director-General and Chief Executive of the Agency;
- (b) three distinguished persons having wide knowledge and possessing such skills and expertise in environmental matters;
- (c) one representative each of the following Ministries not below the rank of a Director, that is:-
 - (i) Agriculture, water Resources and Rural Development;
 - (ii) Finance,
 - (iii) Health and Human Services,
 - (iv) Industries and Technology,
 - (v) Petroleum and Mineral Resources,
 - (vi) Works and Housing,
 - (vii) Transport and Communications,
 - (viii) Education and Youth Development; and
- (d) a representative each of:-
 - (i) the Manufacturer's Association of Nigeria, and
 - (ii) the Nigerian Conservation Foundation.

(3) The functions of the Technical Committee shall be:-

- (a) to assist and advise the Council and the Agency in the performance of their functions under this Act; and
- (b) to give technical opinion on issues referred to it or delegated by the Council.

Removal from office of member of the Agency

3. The office of a member who is not a public officer shall become vacant if he resigns his office by a letter addressed by him to the President, Commander-in-Chief of the Armed Forces or if the President, Commander-in-Chief of the Armed Forces is satisfied that it is not in the interest of the Agency for the person appointed to continue in office as a member in which case the President, Commander-in-Chief of the Armed Forces shall notify the member in writing to that effect. [Decree No. 59, 1992]

Functions of the Agency

4. The Agency shall, subject to this Act, have responsibility for the protection and development of the environment and biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including initiation of policy in relation to environmental research and technology; and without prejudice to the generality of the foregoing, it shall be the duty of the Agency to- [Decree No. 58 of 1988, Decree No. 59 of 1992]

- (a) Prepare a comprehensive national policy for the protection of the environment and conservation of natural resources, including procedure for environmental impact assessment for all development projects;
- (b) Prepare, in accordance with the national policy on the environment, periodic master plans for the development of environmental sciences and technology and advise the Federal Military Government on the financial requirements for the implementation of such plans;
- (c) advise:-
 - (i) the Federal Military government on the national environmental policies and priorities, the conservation of natural resources and sustainable development, and scientific and technological activities affecting the environment, and natural resources;
 - (ii) the President, Commander-in-Chief of the Armed Forces on the utilisation of the 1 per cent Ecological Fund for the protection of the environment.
- (d) promote co-operation in environmental science and conservation technology with similar bodies in other

countries and with international bodies connected with the protection of the environment and the conservation of natural resources;

- (e) co-operate with Federal and State Ministries, Local Governments, statutory bodies and research agencies on matters and facilities relating to the protection of the environment and the conservation of natural resources; and
- (f) to carry out other activities as are necessary or expedient for the full discharge of the functions of the Agency under this Act.

Powers of the Agency to give grants, etc.

5. In carrying out the functions prescribed in section 4 of this Act and in other provisions of this Act, it shall be lawful for the Agency to:-

- (a) make grants to suitable authorities and bodies with similar functions for demonstration and for such other purposes as may be determined appropriate to further the purposes and provisions of the Act;
- (b) collect and make available, through publications and other appropriate means and in co-operation with public or private organisation, basic scientific data and other information pertaining to pollution and environmental protection matters and the degradation of natural resources; [Decree No. 59, 1992]
- (c) enter into contracts with public or private organisations and individuals for the purpose of executing and fulfilling its functions and responsibilities pursuant to this Act;
- (d) establish, encourage and promote training programmes for its staff and other appropriate individuals from public or private organisation;
- (e) enter into agreements with public or private organisations and individuals to develop, utilize, co-ordinate and share environmental monitoring programmes, research effects, basic data on chemical, physical and biological effects of various activities on the environment and other environmentally related activities as appropriate;
- (f) establish advisory committees composed of administrative, technical or other experts in such environmental areas as the Agency may consider useful and appropriate to assist it in carrying out the purposes and provisions of this Act;
- (g) establish such environmental criteria, guidelines, specifications or standards for the protection of the nation's air and inter-State waters as may be neces-

sary to protect the health and welfare of the population from environmental degradation;

- (h) establish such procedures for industrial or agricultural activities in order to minimise damage to the environment and natural resources from such activities;
- (i) maintain a programme of technical assistance to bodies (public or private) concerning implementation of natural resources conservation, environmental criteria, guidelines, regulations and standards and monitoring enforcement of the regulations and standards thereof; [Decree No. 59, 1992] and
- (j) develop and promote such processes, methods, devices and materials as may be useful or incidental in carrying out the purposes and provisions of this Act.

Power of the President, Commander-in-Chief of the Armed Forces to give directions

6. Subject to this Act, the President, Commander-in-Chief of the Armed Forces may give to the Agency directions of a general nature or relating generally to particular matters, but not to any particular individual or case with regard to the performance by the Agency of its functions under this Act and it shall be the duty of the Agency to comply with the directions.

Director-General and other staff of the Agency

7. (1) There shall be appointed by the President, Commander-in-Chief of the Armed Forces a Director-General of the Agency. [Decree No. 59, 1952]

(2) The Director-General shall be the Chief Executive of the Agency shall hold office in the first instance for five years, and thereafter, shall be eligible for re-appointment for one further term of five years only, on terms and conditions as may be specified in his letter of appointment.

(3) The Agency may appoint such other persons to be employees of the Agency as it may deem fit, on such terms and conditions as may be determined by the Agency.

(4) The Agency shall with the approval of the President, Commander-in-Chief of the Armed Forces, make staff regulations governing conditions of service of its employees.

(5) The Agency may grant loans to its employees for purposes approved by the President, Commander-in-Chief of the Armed Forces.

Pensions Cap 346

8. -(1) It is hereby declared that service in the Agency shall be public service for the purposes of the Pensions Act and accordingly officers and other such staff of the Agency shall in respect of their services be entitled to such pensions, gratuities and other retirement benefits as are prescribed thereunder.

(2) For the purposes of the application of the provisions of the Pensions Act, any powers exercisable thereunder by a President, Commander-in-Chief of the Armed Forces or other authority of the Government of the Federation (not being the power to make regulations under Section 23 thereof) are hereby vested in and shall be exercisable by the Agency and not by any other person or authority.

Power of the Director-General

9. The Director-General shall, subject to the policies laid down by the Agency, develop programmes to carry out the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, shall, in particular and in consultation with appropriate agencies:- [Decree No. 59, 1992]

- (a) establish programmes for the prevention, reduction and elimination of pollution of the nation's air, land and inter-state waters, as well as national programmes for restoration and enhancement of the nation's environment and natural resources.
- (b) encourage and promote the co-ordination of the conservation of natural resources and environmentally related activities at all levels;
- (c) Utilise and promote the expansion of research, experiments, surveys and studies by public or private agencies, institutions and organisation concerning causes, effects, extent, prevention, reduction and elimination of pollution and such other matters related to environmental protection and natural resources conservation as the Agency may, from time to time, determine necessary and useful; and
- (d) conduct public investigations on pollution and the degradation of natural resources.

Power to accept gifts, etc.

10. (1) Subject to subsection (2) of this section, the Agency may accept gifts of land, money, books or other property upon such terms and conditions, if any, as may be specified by the person making the gift.

(2) The Agency shall not accept any gift if the conditions attached thereto by the person making the gift are inconsistent with the functions of the Agency under this Act.

Residence, offices and premises

11.-(1) For the purposes of providing residential accommodation for its staff, offices and premises as may be considered necessary for the performance of its functions under this Act, the Agency may-

- (a) purchase or take on lease any interest in land; and
- (b) build, furnish, equip and maintain residential quarters, offices and premises.

(2) Subject to the Land Use Act, the Agency may, with the approval of the President, Commander-in-Chief of the Armed Forces, sell or lease any residential quarters, land, offices or premises held by it and no longer required for the performance of its functions. [Cap. 202].

Fund of the Agency

12.-(1) The Agency shall establish and maintain a fund from which shall be defrayed all expenses incurred by the Agency in the performance of the Agency's duties and functions under this Act. [Decree No. 50, 1992].

(2) The Fund established under subsection (1) of this section shall consist of the following, that is-

- (a) 25 per cent of the 1 per cent Ecological Fund of the Federation Account;
- (b) such sums may, from time to time, be granted to the Agency by the Government of the Federation;
- (c) all money raised for the purposes of the Agency by way of gifts, grants-in-aid, testamentary disposition and sale of publications;
- (d) subscriptions, fees and charges for services rendered by the Agency and all other sums that may accrue to the Agency from any other source.

13. (1) The Agency may, with the consent of the President, Commander-in-Chief of the Armed Forces or in accordance with the general authority given by the Federal Military government, borrow by way of loan or overdraft from any source any moneys required by the Agency to meet its obligations and its functions under this Act, so however that no such consent or authority shall be required where the sum or aggregate of the sums involved at any time does not exceed such amount as is for the time being specified in relation to the Agency by the Federal Military Government.

Annual estimates, accounts, and audit

14. (1) The Agency shall cause to be prepared not later than six months before the end of each year an estimate of the expenditure and income of the Agency during the next succeeding financial year and when prepared they shall be submitted to the President, Commander-in-Chief of the Armed Forces.

(2) The Agency shall cause to be kept proper accounts and proper accounts and proper records in relation thereto and when certified by the Agency such accounts shall be audited as provided in subsection (3) of this section.

(3) The accounts of the Agency shall be audited as soon as may be practicable after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

PART II

NATIONAL ENVIRONMENTAL STANDARDS

Water quality

Federal water quality standards

15. (1) The Agency shall make recommendations to the President, Commander-in-Chief of the Armed Forces for the purpose of establishing water quality standards for the inter-State waters of Nigeria to protect the public health or welfare and enhance the quality of water to serve the purposes of this Act.

(2) In establishing such standards, the Agency shall take into consideration the use and value for public water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial and other legitimate uses.

(3) The Agency shall establish different water quality standards for different uses.

Effluent limitations

16. (1) The Agency shall, as soon as possible after the commencement of this Act, establish effluent limitations for new point sources which shall require application of the best control technology currently available and implementation of the best management practices.

(2) The Agency shall, as soon as possible after the

commencement of this Act, establish effluent limitations for existing point sources which shall require the application of the best management practices under circumstances as determined by the Agency, and shall include schedules of compliance for installation and operation of the best practicable control technology as determined by the Agency.

Air quality and atmospheric protection

Air quality, etc.

17. (1) The Agency shall establish more criteria, guidelines, specifications and standards to protect and enhance the quality of Nigeria's air resources as to promote the public health or welfare and the normal development and productive capacity of the nation's human, animal or plant life, and include in particular -

- (a) minimum essential air quality standards for human, animal or plant health;
- (b) the control of concentration of substances in air which separately or in combination are likely to result in damage or deterioration of property or of human, animal or plant health;
- (c) the most appropriate means to prevent and combat various forms of atmospheric pollution;
- (d) controls for atmospheric pollution originating from energy sources, including that produced by aircraft and other self-propelled vehicles and in factories and power generating stations;
- (e) standards applicable to emission from any new mobile source which in the Agency's judgement causes or contributes to air pollution which may reasonably be anticipated to endanger public health or welfare; and
- (f) the use of appropriate means to reduce emission to permissible levels.

(2) The Agency may establish monitoring stations or networks to locate sources of atmospheric pollution and determine their actual or potential danger.

Ozone protection

18. (1) The Agency shall undertake to study data and recognise developments in international force and other countries regarding the cumulative effect of all substances, practices, processes and activities which may affect the stratosphere, especially ozone in the stratosphere.

(2) The Agency may make recommendations and programmes for the control of any substance, practice, process or activity which may reasonable be anticipated to affect the stratosphere, especially ozone in the stratosphere, when such effect may reasonably be anticipated to endanger public health or welfare.

(3) For the purposes of this section, "stratosphere" means that part of the atmosphere above the troposphere.

Noise

Noise Control

19. (1) The Agency shall, as soon as practicable after the commencement of this Act, in consultation with appropriate authorities -

- (a) identify major noise sources, noise criteria and noise control technology; and
- (b) establish such noise abatement programmes and noise emission standards as it may determine necessary to preserve and maintain public health or welfare.

(2) Any noise criteria identified under this section shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing qualities and quantities of noise.

(3) The Agency shall make recommendations to control noise originating from industrial, commercial, domestic, sports, recreational, transportation or other similar activities.

Hazardous substances, etc.

Discharge of hazardous substances and related Offences

20. (1) The discharge in such harmful quantities of any hazardous substance into the air or upon the land and the waters of Nigeria or at the joining shorelines is prohibited, except where such discharge is permitted or authorised under any law in force in Nigeria.

(2) Any person who violates the provisions of subsection (1) of this Section commits an offence and shall on conviction be liable to a fine not exceeding N100,000 or to imprisonment for a term not exceeding 10 years or to both such fine and imprisonment.

(3) Where an offence under subsection (1) of this section is committed by a body corporate it shall on conviction

tion be liable to a fine not exceeding N500,000 and an additional fine of N1,000 for every day of the offence subsists.

(4) Where any offence under this Act has been committed by a body corporate, the body corporate and every person who at the time the offence was committed was in charge of, or was responsible to the body corporate for the conduct of the business of the body corporate shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this subsection shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) The Agency shall, as soon as possible after the commencement of this Act, determine for the purposes of this section what substances are hazardous substances and such hazardous substances that discharge of which shall be harmful under the circumstances to public health or welfare and, for this purpose, the Agency shall take into account such special circumstances including locations, quantity and climatic conditions relating to discharge as it may determine appropriate.

(6) Notwithstanding the provisions of this section or of any other sections of this Act, the provisions of the Harmful Waste (Special Criminal Provisions, Etc.) Act shall apply in respect of any hazardous substance constituting harmful waste as defined in section 15 thereof. [Cap. 165, LFN, 1990]

Spiller's liability

21. (1) Except where an owner or operator can prove that a discharge was caused solely by a natural disaster or an act of war or by sabotage, such owner or operator of any vessel or onshore or offshore facility from which the hazardous substance is discharged in violation of section 20 of this Act, shall in addition to the penalty specified in that section be liable for -

(a) the cost of removal thereof, including any costs which may be incurred by any Government body or agency in the restoration or replacement of natural resources damaged or destroyed as a result of the discharge; and

(b) costs of third parties in the form of reparation, restoration, restitution or compensation as may be determined by the Agency from time to time.

(2) The owner or operator of a vessel or onshore or offshore facility from which there is a discharge in

violation of section 20 of this Act shall, to the fullest extent possible, act to mitigate the damage by-

(a) giving immediate notice of the discharge to the Agency and any other relevant agencies;

(b) beginning immediate clean-up operations following the best available clean-up practice and removal methods as may be prescribed by regulations made under section 22 of this Act; and

(c) promptly complying with such other directions as the Agency may from time to time, prescribe.

Removal methods, etc.

22. The President, Commander-in-Chief of the Armed Forces for purposes of this Part of this Act may, by regulations, prescribe any specific removal methods, national contingency plans, financial responsibility levels for owners of operators of vessels, or onshore or offshore facilities, notice and reporting requirements, penalties and compensation as he may determine necessary to minimise pollution by any hazardous substance.

Co-operation with the Ministry of Petroleum Resources

23. The Agency shall co-operate with the Ministry of Petroleum Resources (Petroleum Resources Department) for the removal of oil related pollutants discharged into the Nigerian environment and play such supportive role as the Ministry of Petroleum Resources (Petroleum Resources Development) may from time to time request from the Agency).

PART III

ESTABLISHMENT OF STATE AND LOCAL GOVERNMENT ENVIRONMENTAL PROTECTION BODIES

Establishment of State and Local Government Bodies

24. The President, Commander-in-Chief of the Armed Forces shall, as soon as possible after the commencement of this Act, encourage States and Local Government Councils to set up their own Environmental Protection Bodies for the purpose of maintaining good environmental quality in the areas of related pollutants under their control subject to the provisions of this Act.

PART IV

SUPPLEMENTARY AND MISCELLANEOUS

Enforcement powers

Powers to inspect, etc.

25. For the purposes of enforcing this Decree, any authorised officer may, without a warrant -

- (a) require to be produced, examine and take copies of any licence, permit, certificate or other document required under this Decree or any regulations made thereunder;
- (b) require to be produced and examine any appliance, device or other item used in relation to environmental protection.

Powers to search, seize and arrest

26. (1) Any authorised officer, where he has reasonable grounds for believing that an offence has been committed against this Act or any regulations made thereunder, may without a warrant -

- (a) enter and search any land, building, vehicle, tent, vessel, floating craft or any inland water or other restructure whatsoever, in which he has reason to believe that an offence against this Act or any regulations made thereunder has been committed;
- (b) perform tests and take samples of any substances relating to the offence which are found on the land, building, vehicle, tent, vessel, floating craft or any inland water or other structure whatsoever, searched pursuant to paragraph (a) of this subsection;
- (c) cause to be arrested any person who he has reason to believe has committed such offence; and
- (d) seize any item or substance which he has reason to believe has been used in the commission of such offence or in respect of which the offence has been committed.

(2) A written receipt shall be given for any article or thing seized under subsection (1) of this section and the grounds for such seizure shall be stated on such receipt.

27. Any person who -

- (a) wilfully obstructs any authorised officer in the exercise of any of the powers conferred on him by this Act; or

- (b) fails to comply with any lawful enquiry requirements made by any authorised officer in accordance with the provisions of section 25 of this Act, commits an offence and shall on conviction be liable to a fine not exceeding N500,000 or to imprisonment for a term not exceeding 10 years or to both such fine and imprisonment.

Authorised officers to disclose identity

28. (1) Any authorised officer, not in uniform when acting under the provisions of this Act, shall, on demand, declare his office and produce to any person against whom he is taking action such identification or written authority as may reasonably be sufficient to show that he is an authorised officer for the purposes of this Act.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any authorised officer not in uniform, if such authorised officer refuses, on demand being made by such person, to declare his office or produce such identification or written authority.

Procedure in respect of suits against the Agency, etc.

29. (1) No suit against the Agency, a member of the Agency or any employee of the Agency for any act done in pursuance or execution of any law, or of any public duties or in respect of any alleged neglect or default in the execution of such law, duties or authority, shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury within twelve months next after the ceasing thereof.

(2) No suit shall be commenced against the Agency before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Agency by the intending plaintiff or his agent, and the notice shall clearly and explicitly state -

- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief which he claims.

Service of documents

30. The notice referred to in section 29(c) of this Act and any summons, notice or other document required or authorised to be served upon the Agency under the provisions of this Act or any other law may be served by de-

livering the same to the Director-General, or by sending it by registered post addressed to the Director-General at the Secretariat of the Agency. [Decree No. 59, 1992]

Restriction on execution against the property of the Agency

31. In any action or suit against the Agency no execution or attachment or process in the nature thereof shall be issued against the Agency but any sums of money which by judgment of the court is awarded against the Agency shall, subject to any directions given by the Agency, be paid from the general reserve fund of the Agency.

Indemnity of members of the Agency and employees of the Agency

32. Every member of the Agency, agent, auditor or employee for the time being of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding whether civil or criminal, if any such proceeding is brought against him in capacity as such member, agent, auditor or employee is aforesaid.

Annual report

33. The Agency shall, not later than 30th September in each year submit to the President, Commander-in-Chief of the Armed Forces a report on the activities of the Agency and its administration during the immediately preceding year and shall include in such report the audited accounts of the Agency.

Material misrepresentation and impersonation

34. (1) If a person knowingly or recklessly makes any statement in purported compliance with a requirement to furnish information which is false in a material particular, he commits an offence and shall on conviction be liable to a fine not exceeding N200 or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) Any person who falsely represents himself to be an authorised officer of the Agency and assumes to do any act or to attend in any place for the purpose of doing any act on behalf of the Agency shall be guilty of an offence under this Act and on conviction shall be liable to imprisonment for a term not exceeding two years.

General penalties

35. Any person who contravenes any provisions of this Act or any regulation made thereunder commits an offence and shall on conviction, where not specific penalty is prescribed thereof, be liable to a fine not

exceeding N20,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

Companies and firms liable

36. Where any offence against this Decree or any regulations made thereunder has been committed by a body corporate or by a member of a partnership or other firm or business, every director or officer of that body corporate of any member of the partnership or other person concerned with the management of such firm or business shall, on conviction, be liable to a fine not exceeding N500,000 for such offence and in addition the body corporate, firm or partnership shall be directed to pay compensation for any damage resulting from such breach thereof or to repair and restore the polluted environmental area to an acceptable level as approved by the Agency. [Decree No. 59, 1992]

Miscellaneous

Delegation of functions, etc.

36A. (1) The Council may delegate any of its functions and duties under this Act to the Technical Committee or the Director-General, as the case may be. [Decree No. 59, 1992]

(2) Nothing contained in subsection (1) of this section shall preclude the exercise by the Council of any of the functions or duties delegated by it to the Technical Committee or the Director-General. [Decree No. 59, 1992]

Repeal etc.

Cap 286 LFN

36B. (1) The Natural Resources Conservation Act is hereby repealed.

(2) The repeal of the enactment referred to in subsection (1) of this section shall not affect anything done or purported to have been done under the repealed enactment.

Power to make regulations

37. The Director-General may, with the approval of the Council, make regulations generally for the purposes of this Act and without prejudice to the generality of the foregoing, the Director-General may in particular prescribe standards for - [Decree No. 50, 1992]

- (a) water quality;
- (b) effluent limitations;
- (c) air quality;

- (d) atmospheric protection;
- (e) ozone protection;
- (f) noise control; and
- (g) control of hazardous substances and removal control methods.

Interpretation

38. In this Act, unless the context otherwise requires -

“appropriate agencies” means any government agencies which have jurisdiction over the land or water affected by the pollution or any government agencies which ordinarily has jurisdiction over the operation which led to the pollution;

“authorised officer” means any employee of the Agency, any police officer not below the rank of an Inspector of Police, or any customs officer;

“court” means the Federal High Court;

“Director-General” means the Director-General of the Federal Environmental Protection Agency; [Decree No. 59, 1992]

“disposal” includes both land-based disposal and dumping in waters and air space of Nigeria;

“Effluent limitation” means any restriction established by the Agency of quantities, rates and concentration of chemical, physical, biological or other constituents which are discharged from point sources into the waters of Nigeria;

“environment” includes water, air, land and all plants and human beings or animals living therein and the inter-relationships which exist among these or any of them;

“hazardous substance” includes any substance designated as such by the President, Commander-in-Chief of the Armed Forces by order published in the Federal Gazette;

“new source” means any source, the construction of which is commenced after the publication of any regulations prescribing a standard to such source;

“offshore facility” means any facility (including but not limited to motor vehicles and rolling stock) of any kind located over, in, on or under any land within Nigeria other than submerged land;

“owner” or “operator” means -

(a) in the case of a vessel, any person owning, operating or chartering by demise such vessel;

(b) in the case of an onshore facility or an offshore facility, any person owning or operating such onshore facility or offshore facility; and

(c) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

“point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged;

“pollution” means man-made or man-aided alteration of chemical, physical or biological quality of the environment or beyond acceptable limits and “pollutant” shall be construed accordingly;

“removal” means removal of hazardous substances from waters of Nigeria, including shorelines or the taking of such other action as may be necessary to minimise or mitigate damage to the public health or welfare, ecology and natural resources of Nigeria;

“waters of Nigeria” means all water resources in any form, including atmospheric, surface and sub-surface, and underground water resources where the water resources are inter-State, or in the Federal Capital Territory, territorial water, Exclusive Economic Zone or in any other area under the jurisdiction of Federal Government.

39. This Decree may be cited as the Federal Environmental Protection Agency (Amendment) Decree 1992 and shall be deemed to have come into force on 2nd January 1992.

SCHEDULE

Section 1 (3)

SUPPLEMENTARY PROVISIONS RELATING TO THE AGENCY [CAP. 192, LFN, 1990]

Proceedings

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding to have a second or casting vote), the Agency may make standing orders regulating the proceedings of the Agency or any committee thereof.

2. Every meeting of the Agency shall be presided over by the Director-General or in his absence the members present at the meeting shall elect one of their number to preside at the meeting.

3. The quorum at a meeting of the Agency shall consist of the Director-General (or in an appropriate case the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and six other members.

4. Whereupon any special occasion the Agency desires to obtain the advice of any person on any particular matter, the Agency may co-opt that person to be a member for as many meetings as may be necessary; and that person while so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote.

Committees

5. (1) Subject to its standing orders, the Agency may appoint such number of standing and *ad hoc* committees as it thinks fit to consider and report on any matter with which the Agency is concerned.

(2) Every committee appointed under the foregoing provisions of this paragraph shall be presided over by a member of the Agency and shall be made up of such number of other persons, not necessarily members of the Agency, as the Agency may determine in each case.

(3) The quorum of any committee set up by the Agency shall be as may be determined by the Agency.

6. Where standing orders made pursuant to paragraph 1 of this Schedule provide for a committee of the Agency

to consist of co-opted persons who are not members of the Agency, the committee may advise the Agency on any matter referred to it by the Agency and the members thereof may attend any meeting of the Agency for that purpose.

Miscellaneous

7. The fixing of the seal of the Agency shall be authenticated by the signature of the Director-General of the Agency.

8. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the Director-General or by any other person generally or specially authorised to act for that purpose by the Agency.

9. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Agency shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

10. The validity of any proceedings of the Agency or of a committee thereof shall not be adversely affected -

(a) by any vacancy in the membership of the Agency or any committee thereof; or

(b) by any defect in the appointment of a member of the Agency or any committee thereof.

11. Any member of the Agency or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Agency or committee thereof shall forthwith disclose his interest to the Agency or the committee and shall not vote on any question relating to the contract or arrangement.

12. No member of the Agency shall be personally liable for any act done to omission made in good faith while engaged on the business of the Agency.

Made at Abuja this 2nd day of August 1992

GENERAL I.B. BABANGIDA,

President, Commander-in-Chief of the Armed Forces,

Federal Republic of Nigeria

EXPLANATORY NOTE

(This note does not form part of the above Decree but is intended to explain its purport)

The Decree amends the Federal Environmental Protection Agency Act to, among other things, make the Agency an integral part of the Presidency and constitute for the Agency a Governing Council and a Technical Committee.

SOUTH AFRICA

Environment Conservation Act, 1989 (Act No. 73 of 1989)

[ASSENTED TO 1 JUNE 1989]

[DATE OF COMMENCEMENT: 9 JUNE 1989]

(English text signed by the State President)

as amended by

Environment Conservation Amendment Act No. 98 of 1991

Environment Conservation Amendment Act No. 79 of 1992

Environment Conservation Second Amendment Act 115 of 1992 and

Environment Conservation Amendment Act No. 94 of 1993.

Environment Conservation Second Amendment Act No. 189 of 1993

Constitution of the Republic of South Africa, No.200 of 1993

[with effect from 7 April, 1995 — see Proclamation No.R.29 of 1995]

Environment Conservation Amendment Act No. 52 of 1994.

ACT

To provide for the effective protection and controlled utilization of the environment and for matters incidental thereto.

ARRANGEMENT OF SECTIONS

Definitions

PART I: Policy for Environmental Conservation

PART II: Council for the Environment, Committee for

Environmental

Cor-ordination and Board of Investigation

PART III: Protection of Natural Environment

PART IV: Control of Environmental Pollution

PART V: Control of Activities which may have Detrimental Effect on the Environment

PART VI: Regulations

PART VII: Offences, Penalties and Forfeiture

PART VIII: General Provision

1. Definitions. - In this Act, unless the context indicates otherwise: -

“**administrative body**” means a Minister, Administrator, local authority, government institution or a person who makes a decision in terms of the provisions of this Act;

“**administrator**”, in so far as a provision of this Act is applied in or with reference to a particular province, means the competent authority to whom the administration of this Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No.200 of 1993), has been assigned in that province;

[Definition of “Administrator” inserted by Proclamation No. R.29 of 1995]

“**chief executive officer**” means the officer in charge of the relevant local authority or government institution;

“**committee**” means the Committee for Environmental Co-ordination established by section 12;

[Definition of “committee” substituted by s.1 of Act No.94 of 1993]

“**council**” means the Council for the Environment established by section 4;

“define” includes a description by means of a map on which sufficient information is indicated to identify an area;

[Definition of “define” insert by s. 1 (a) of Act No.79 of 1992]

“Department” means the Department of Environmental Affairs and Tourism;

[Definition of “Department” substituted by s.1(a) of Act No.52 of 1994]

“Director-General” means the Director-General: Environmental Affairs and Tourism;

[Definition of “Director-General” substituted by s.1(b) of Act No.52 of 1994]

“disposal site” means a site used for the accumulation of waste with the purpose of disposing or treatment of such waste;

“ecological process” means the process relating to the interaction between plants, animals and humans and the elements in their environment;

“ecosystem” means any self-sustaining and self-regulating community of organisms and the interaction between such organisms with one another and with their environment;

“environment” means the aggregate of surrounding objects, conditions and influences that influence the life and habits of man or any other organism or collection of organisms;

“environmental impact report” means a report referred to in section 22(2) or 23(3);

[Definition of “environmental impact report” substituted by

s. 1 (b) of Act No.79 of 1992]

“government institution” means any institution, body, company or close corporation

recognized by the Minister by notice in the *Gazette*;

[Definition of “government institution” substituted by

s. 1 (c) of Act No.79 of 1992]

“limited development area” means an area declared as a limited development area in terms of section 23(1);

“litter” means any object or matter discarded or left be-

hind by the person in whose possession or control it was;

[Definition of “litter” substituted by

s. 1 (d) of Act No.79 of 1992]

“local authority” in so far as a provision of this Act is applied in or with reference to a particular province, means a local government body or a transitional council, as the case may be, contemplated in section 1(1) of the Local Government Transition Act, 1993 (Act No.209 of 1993);

[Definition of “local authority” substituted by

s. 1 of Act No.98 of 1991 and by Proclamation No. R29 of 1995

“management advisory committee” means a committee established under section 17(1);

“Minister” means the Minister of Environmental Affairs and Tourism;

“Minister of State Expenditure”-

(a) in so far as the administration of this Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993 been assigned to a competent authority within the jurisdiction of the government of a province and the provision is applied in or with reference to the province concerned, means the member of the Executive Council of that province responsible for the budget in the province; or

(b) in so far as the administration of a provision of this Act has been so assigned, means the Minister of Finance;

[Definition of “Minister of State Expenditure” inserted by Proclamation No. R.29 of 1995].

“Official Gazette” means the *Provincial Gazette* of a Province;

[Definition of “Official gazette” inserted by Proclamation No. R.29 of 1995].

“prescribe” means prescribe by regulation or notice in the *Gazette*;

[Definition of “prescribe” substituted by s. 1(e) of Act 79 of 1992]

“protected natural environment” means an area declared as a protected natural environment under section 16 (1);

“province” means a province established in terms of

section 124 of the Constitution of the Republic of South Africa, 1993;

[Definition of "province" inserted by Proclamation No.R.29 of 1995]

"provincial administration" means the provincial administration established for a province by the Public Service Act, 1994 (Proclamation No.103 of 1994).

[Definition of "provincial administration" inserted by Proclamation No.R.29 of 1995]

"regulation" means a regulation made under this act;

[Definition of "regulation" inserted by s. 1(f) of Act 79 of 1992.]

"special nature reserve" means an area declared as a special nature reserve under section 18;

"this Act" includes the regulations and any notice issued under the Act;

[Definition of "this Act" substituted by s. 1(g) of Act 79 of 1992]

"waste" means any matter, whether gaseous, liquid or solid or any combination thereof, which is from time to time designated by the Minister by notice in the *Gazette* as an undesirable or superfluous by-product, emission, residue or remainder of any process or activity.

[Definition of "waste" substituted by s. 1(h) of Act 79 of 1992]

tion of biotic diversity in the natural environment;

(b) the promotion of sustainable utilization of species and ecosystems and the effective application and re-use of natural resources;

[Para. (b) substituted by s. 2 (a) of Act 79 of 1992]

(c) the protection of the environment against disturbance, deterioration, defacement, poisoning, pollution or destruction as a result of man-made structures, installations, processes or products or human activities; and

[Para. (c) substituted by s. 2 (a) of Act No.79 of 1992]

(d) the establishment and maintenance of acceptable human living environments in accordance with the environmental values and environmental needs of communities;

[Para. (d) substituted by s. 2 (a) of Act No.52 of 1994]

(e)

(f)

(g)

(2) The policy contemplated in subsection (1) shall be determined by the Minister after consultation with-

(a) each Minister charged with the administration of any law which in the opinion of the Minister relates to a matter affecting the environment;

(b) the Minister of State Expenditure;

(c) the Administrator of each province; and

(d) the council.

[Sub-s. (2) substituted by s. 2 (b) of Act 79 of 1992]

(3) The Minister may at any time, subject to the provisions of subsection (2), by like notice substitute, withdraw or amend the policy determined in terms of subsection (1).

3. Compliance with policy. - (1) Each Minister, Administrator, local authority and government institution upon which any power has been conferred or to which any duty which may have an influence on the environment has been assigned by or under any law, shall exercise such power and perform such duty in accordance with the policy referred to in section 2.

(2)

PART I

POLICY FOR ENVIRONMENTAL CONSERVATION

2. Determination of policy. - (1) Subject to the provisions of subsection (2) the Minister may by notice in the *Gazette* determine the general policy, including policy with regard to the implementation and application of a convention, treaty or agreement relating to the environment which has been entered into or ratified, or to be entered into or ratified, by the Government of the Republic, to be applied with a view to-

(a) the protection of ecological processes, natural systems and the natural beauty as well as the preserva-

(a)

(b)

[S. 3 substituted by s. 3 of Act No.79 of 1992 and by Act No.189 of 1993]

PART II

COUNCIL FOR THE ENVIRONMENT, COMMITTEE FOR ENVIRONMENTAL CO-ORDINATION AND BOARD OF INVESTIGATION

[Heading substituted by s. 2 of Act 94 of 1993]

4. Establishment of Council for the Environment. -

There is hereby established a council called the Council for the Environment.

5. Objects of Council. - (1) The Council shall advise the Minister on-

(a) any matter relating to the policy referred to in section 2; and

(b) any matter which the Minister refers to the council or which the council deems necessary.

(2) The Council may hear representations by any person relating to matters affecting the environment if, after a memorandum on such matters has been submitted to it, the council is of the opinion that such representations will be in the interest of the conservation of the environment.

6. Constitution of Council. - (1) The Council shall consist of not more than 22 members, who are appointed by the Minister, and of whom-

(a) 18 members in the opinion of the Minister have knowledge of and are able to make a contribution towards the protection and utilization of the environment; and

(b) one member for each province is nominated for appointment by the Administrator of the province concerned.

[Sub-s.(1) substituted by s. 4 of Act No.79 of 1992]

(2) The Minister shall designate one member of the Council as Chairman and another member as Vice-Chairman.

(3) A member of the Council shall hold office for such period, but not exceeding three years, as the Minister may determine at the time of his appointment, but may be reappointed at the expiry of his term of office.

(4) A member of the Council shall vacate his office if he-

(a) is declared insolvent or assigns his estate in favour of his creditors;

(b) is convicted of an offence and sentenced to imprisonment without the option of a fine;

(c) is absent from more than three consecutive meetings of the Council without leave of the Chairman;

(d) resigns as a member; or

(e) is removed from office under subsection (5).

(5) The Minister may at any time remove a member of the Council from office if he is of the opinion that such member is incompetent to fulfil his office or that he has misconducted himself.

(6) If a member dies or in terms of subsection (4) ceases to be a member, the Minister may, subject to the provisions of subsection (1), appoint a person in his place for the unexpired period of his term of office, or for such shorter term as the Minister may determine.

7. Committees of council. - (1) (a) The Council may with the approval of the Minister from among its number elect an Executive Committee consisting of such number of members as the Council may determine with the approval of the Minister.

(b) The Chairman of the Council shall be the Chairman of the Executive Committee.

(c) The executive Committee shall perform such functions as the Council may determine with the approval of the Minister.

(2) (a) The Council may with the approval of the Minister establish other committees consisting of such persons as may be determined by the council in order to assist the council in the performance of its functions.

(b) The Council shall designate a member of a Committee as Chairman of such Committee.

(3) The Council may allow any member of a Committee who is not a member of the Council to attend any meeting of the Council at which any matter relating to a function assigned to that Committee is dealt with and may allow such member to take part in the proceedings at such

meeting, without having the right to vote.

8. Allowances to members of Council and Committees of Council. - A member of the Council and a member of a Committee of the Council who is not in the full-time employment of the State may be paid from money appropriated by Parliament for that purpose such remuneration and allowances as the Minister may, with the concurrence of the Minister of State Expenditure, determine either in general or in any particular case.

9. Meetings of council, records to be kept by council and submission of advice to Minister. - (1) The Minister shall determine-

(a) the manner of the calling of the quorum for an the procedure at meetings of the Council; and

(b) what records shall be kept by the Council and the manner in which the advice of the Council shall be submitted to the Minister.

(2) If the Chairman of the council is absent from any meeting of the Council, the Vice-Chairman shall preside at the meeting, and if both the Chairman and the Vice-Chairman are absent from any meeting of the Council, the members present thereat may elect one of their number to preside at such meeting.

10. Administrative work of Council. - The Director-General shall designate, subject to the provisions of the Public Service Act, 1994 (Proclamation No.103 of 1994, as many officers and employees of the Department as may be necessary to assist the Council and any Committee thereof in the administrative work connected with the performance of the functions of such Council or Committee: Provided that, with the approval of the Minister, such administrative work may be performed by any person other than such officer or employee at the remuneration and allowances which the Minister with the concurrence of the Minister of State Expenditure may determine.

[S.10 amended by s. Proclamation No.R.29 of 1995]

11. Reports by Council. - The council shall submit to the Minister-

(a) as soon as practicable after the conclusion of any meeting of the Council a copy of the minutes of such meeting; and

(b) as soon as practicable after 30 September in each year a report on its activities during the preceding year.

12. Establishment of Committee for Environmental Co-ordination. - There is hereby established a committee called the Committee for Environmental Co-ordination.

[S.12 substituted by s.3 of Act No.94 of 1993]

13. Powers, functions and duties of Committee. - (1) The Committee may, in accordance with the policy referred to in section 2-

(a) co-ordinate actions which are taken by departments and which may have a material influence on the protection and utilization of the environment;

(b) in the manner it deems =fit, promote co-operation between departments which are concerned with matters which may have a material influence on the protection and utilization of the environment;

(c) draw up reports or have reports drawn up in respect of any matter contemplated in paragraphs (a) and (b);

(d) advise departments which are concerned with matters affecting the environment with a view to pursuing common objectives in respect of the protection and utilization of the environment;

(e) investigate the state of the environment or cause it to be investigated and shall biennially in the manner it deems fit, in writing report of the Minister thereon.

(2) For the purposes of this section, 'departments' means departments referred to in section 6 (1) of the Public Service Act, 1984 (Act No. 11 of 1984).

[S. 13 amended by s. 5 of Act 79 of 1992 and substituted by

s. 4 of Act 94 of 1993 and by Proclamation No.R.29 of 1995]

14. Constitution of Committee. -(1) The Committee shall consist of-

(a) the Director-General, whom shall act as Chairman;

(b) the Deputy-Director-General of the Department referred to in subsection (3);

(c) (i) the Director-General: Water Affairs and Forestry;

(ii) the Director-General: Mineral and Energy Affairs;

(iii) the Director-General: Transport

- (iv) the Director-General: Agriculture;
- (v) the Director-General: National Health and Population Development;
- (vi) the Director-General: Foreign Affairs;
- (vii) the Director-General: Regional and Land Affairs;
- (viii) the Director-General: Education and Training;
- (ix) the Director-General: National Education;
- (x) the Director-General: Local Government and National Housing;
- (xi) the Director-General: Trade and Industry;
- (xii) the Director-General: Provincial Administration of the Cape of Good Hope;
- (xiii) the Director-General: Provincial Administration of Natal;
- (xiv) the Director-General: Provincial Administration of the Orange Free State;
- (xv) the Director-General: Provincial Administration of the Transvaal; and
- (xvi) the Chief of the South African Defence Force.
- (xvii)
- (d).....

(2) Every member of the Committee referred to in subsection (1)(c) shall appoint an alternate member from his department, and any alternate member so appointed shall act in place of the member in respect of whom he has been appointed as alternate member, during such member's absence or inability to act as a member of the Committee: Provided that an alternate member shall not hold a rank lower than that of Chief Director.

(3) When the Chairman is absent the Deputy-Director-General of the Department who is designated by the Director-General as deputy Chairman, shall act as Chairman, and when both the Chairman and the Deputy Chairman are absent, the members present shall from their number elect a person to preside at that meeting.

(4) The Committee may co-opt persons who are involved in environmental affairs at national level and who in the opinion of the committee can make a contribution to the activities of the committee.

[S. 14 amended by 6 of Act 79 of 1992 and substituted by s. 5 of Act 94 of 1993]

14.A Executive Committee and Subcommittees of Committee. - (1)(a) The Committee may from its number elect an Executive Committee consisting of such number of members as the Committee may determine.

(b) The Chairman of the Committee shall be the Chairman of the Executive Committee.

(c) The Executive Committee shall perform such functions as the Committee may determine.

(2)(a) The Committee may appoint subcommittees consisting of such persons as the Committee may determine, to assist the Committee in the performance of its functions.

(b) The Committee shall designate a member of a subcommittee as Chairman of such subcommittee.

[S. 14A. inserted by s. 6 of Act 94 of 1993]

14B. Allowances to members of subcommittees and persons co-opted

A member of a subcommittee and a person co-opted in terms of section (14(4) who is not in the full-time employment of the State may be paid from money appropriated by Parliament for that purpose such remuneration and allowances as the Minister may, with the concurrence of the Minister of State Expenditure, determine either in general or in any particular case.

[S. 14B. inserted by s. 6 of Act 94 of 1993]

14C. Meetings and decisions of Committee. - (1) The Committee shall meet as often as may be necessary.

(2) At a meeting of the Committee a quorum shall consist of 10 members, who need not include the Chairman.

(3) The Committee shall decide on any matter by a majority of votes cast at a meeting by the members present.

(4) In the event of an equality of votes on any matter considered by the Committee at a meeting, the Chairman shall have a casting vote in addition to his deliberate vote.

(5) Every member present at a meeting shall cast his vote on every matter considered at the meeting.

(6) (a) The first meeting of the Committee shall be held at a time and place determined by the Chairman, and

subsequent meetings at times and places determined by the Committee.

- (b) Subject to the provisions of this Act, the Committee shall determine its own procedures and put them to writing.
- (c) At a meeting of the committee the procedure so determined shall be followed: Provided that until a procedure has been so determined, the procedure determined by the Chairman shall be followed.

[S. 14C inserted by s. 6 of Act 94 of 1993]

15. Board of investigation. - (1) The Minister shall from time to time appoint a board of investigation to assist him in the evaluation of any matter or any appeal in terms of the provisions of this Act.

- (2) The board of investigation shall consist of-
 - (a) (i) a judge or retired judge of the Supreme Court of South Africa;
 - (ii) a magistrate or retired magistrate;
 - (iii) any person admitted in terms of the Admission of Advocates Act, 1964 (Act 74 of 1964), to practice as an advocate; or
 - (iv) any person admitted in terms of the Attorneys Act, 1979 (Act 53 of 1979 (Act 53 of 1979)), to practice as an attorney,

who in the opinion of the Minister has a knowledge of matters relating to the environment, and is designated by him as Chairman; and

(b) such number of other persons as the Minister deems necessary and in his opinion have expert knowledge of the matter which the board of investigation has to consider.

(3) A session of the board of investigation shall take place on the date and at the time and place fixed by the Chairman, who shall advise the Minister and the relevant parties in writing thereof.

(4) The board of investigation may for the purposes of the investigation-

- (a) instruct any person who in its opinion may give material information concerning the subject of the investigation or who it believes has in his position or custody or under his control any book, document or thing which has any bearing upon the subject of the investigation, to appear before such board;

(b) administer an oath to or accept an affirmation from any person called as a witness at the investigation; and

(c) call any person present at the investigation as a witness and interrogate him and require him to produce any book, document or thing in his possession or custody or under his control.

(5) An instruction referred to in subsection (4) (a) to appear before the board of investigation shall be by way of a subpoena signed by the Chairman of the board.

(6) (a) A session of the board of investigation shall be held in public.

(b) The decision of the board and the reasons therefor shall be reduce to writing.

(7) A member of the board of investigation who is not in the full-time employment of the State may be paid from money appropriated by Parliament for that purpose such remuneration and allowances as the Minister may, with the concurrence of the Minister of State Expenditure, determine either in general or in any particular case.

(8) The Director-General shall designate, subject to the provisions of the Public Service Act, 1984 (Act 111 of 1984), as many officers and employees of the Department as may be necessary to assist the board i the administrative work connected with the performance of the functions of the board of investigation: Provided that with the approval of the Minister such administrative work may be performed by any person other than such officer or employee at the remuneration and allowances which the Minister with the concurrence of the Minister of State Expenditure may determine.

PART III

PROTECTION OF NATURAL ENVIRONMENT

16. Protected natural environment. - (1) An Administrator may by notice i the *Official Gazette* concerned declare any area defined by him, to be a protected natural environment and may allocate a name to such area: Provided that such protected natural environment may only be declared-

- (a) if in the opinion of the Administrator there are adequate grounds to presume that the declaration will

substantially promote the preservation of specific ecological processes, natural systems, natural beauty or species of indigenous wildlife or the preservation of biotic diversity in general; and

- (b) after consultation with the owners of, and the holders of real rights in, land situated within the defined area: provided that where such owners and holders cannot readily be located the Administrator shall give notice in the *Official Gazette* and in one Afrikaans and one English newspaper circulating within the district where the land is situated, of his intention to declare such land to be a protected natural environment and invite such owners and holders to lodge any complaints against the intended declaration with the Director-General of that province within 30 days from the date of the notice.

(1A) An Administrator, may with the concurrence of the Minister, by notice in the *Official Gazette*;

- (a) exclude any area from a protected natural environment and amend the description of the protected natural environment accordingly;
- (b) withdraw the declaration of any protected natural environment; and
- (c) change the name of any protected natural environment.

[Sub-s. (1A) inserted by s. 1 (a) of Act 115 of 1992]

(1B) The provisions of subsection (1) (b) shall *mutatis mutandis* apply to the exclusion of an area from a protected natural environment and the withdrawal of a declaration of a protected natural environment: Provided that the withdrawal of a declaration of a protected natural environment may only take place after consultation with any local authority or government institution (if any) to which the control and management of the area concerned had been assigned in terms of subsection (6) (a).

[Sub-s. (1B) inserted by s. 1 (a) of Act 115 of 1992]

(2) The Administrator may by notice in the *Official Gazette* concerned issue directions in respect of any land or water in a protected natural environment in order to achieve the general policy and objects of this Act: Provided that-

- (a) a copy of the directions applicable to the area shall be handed or forwarded by post to the last-known address or every owner of, and every holder of a real right in the land in question; and
- (b) the directions shall only be issued with the concurrence of each Minister charged with the administra-

tion of any law which in the opinion of the Administrator relates to a matter affecting the environment in that area.

(2A) The Administrator may, with the concurrence of the Minister, subject to the provisions of any other law pertaining to land, and subject to the proviso to subsection (2), amend or repeal any direction issued under the said subsection.

[Sub-s. (2A) inserted by s. 1 (b) of Act 115 of 1992]

(3) Every owner of, and every holder of a real right in, land situated within a protected natural environment in respect of which directions have been issued in terms of subsection (2) or amended in terms of subsection (2A), and the successors in title of such owner and the holder of the real right, shall be subject to the provisions of such directions.

[Sub-s. (3) substituted by s. 1 (c) of Act 115 of 1992]

(4) The Administrator shall in writing direct the Registrar of deeds of the deeds registry in which the title deed of land referred to in subsection (3) is registered, to make an entry of the directions in question in his registers and to endorse the office copy of the title deed accordingly.

(5) The Administrator may with the concurrence of the Minister of State Expenditure out of money appropriated by Parliament for that purpose and subject to such conditions as he may determine, render financial aid by way of grants or otherwise to the owner of, and the holder of a real right in, land situated within a protected natural environment in respect of expenses incurred by the owner or holder of the right in compliance with any direction

issued in terms of subsection (2).

(6) An Administrator may-

- (a) with the concurrence of a local authority or government institution assign the control and management of a protected natural environment to such local authority or government institution; or
- (b) withdraw such control and management from such local authority or government institution.

Management Advisory Committees in respect of Protected Natural Environment

17. (1) An Administrator may in respect of any protected natural environment establish a Management Advisory Committee to advise him with regard to the control and management of such protected natural environment in order to advance the objects referred to in section 16 (1) (a).

(2) The Administrator shall determine the membership of Management Advisory Committee.

(3) Subject to the provisions of subsection (4), the members of a Management Advisory Committee shall be appointed by the Administrator from persons who-

(a) shall represent the following interests, namely-

(i) the Department and any other department of State which in the opinion of the Administrator should be represented in the Management Advisory Committee;

(ii) the Provincial Administration concerned;

(iii) every local authority whose area of jurisdiction falls wholly or partly within the protected natural environment; and

(iv) the users of such land; and

(b) in the opinion of the Administrator are capable of assisting the Management Advisory Committee in the performance of its functions.

(4) If an Administrator assigns the control and management of a protected natural environment to a local authority or government institution in terms of section 16 (6), the appointment of members of such management advisory committees shall be made with the concurrence of such local authority or government institution.

(5) The Administrator shall designate one member of a Management Advisory Committee as Chairman and another member as Vice-Chairman.

(6) A member of a Management Advisory Committee shall hold office for such period as the Administrator may determine at the time of the appointment of such member, but may be reappointed at the expiry of his term of office: Provided that the Administrator may, if in his opinion there are sufficient reasons for doing so, at any time remove a member from office.

(7) The Director-General of the relevant provincial administration shall, subject to the provisions of the Public Service Act, 1984 (Act 111 of 1984), designate as many officers and employees of the provincial administration as may be necessary to assist a Management Advisory Committee in the administrative work connected with the performance of the functions of the Committee: Provided that where the control and management of a protected natural environment has been assigned to another local authority or government institution in terms of section 16 (6) the Chief Executive Officer of such local authority or government institution as may be necessary to assist a Management Advisory Committee with the said administrative work: Provided further that with the ap-

proval of the Minister such administrative work may be performed by a person other than such officer or employee at the remuneration and allowances which the Minister with the concurrence of the Minister of State Expenditure may determine.

(8) A member of a Management Advisory Committee who is not in the full-time employment of the State or a local authority may be paid from money appropriated by Parliament for that purpose, such remuneration and allowances as the Administrator may, with the concurrence of the Minister of State Expenditure, determine in general or in any particular case.

Special nature reserves

18. (1) The Minister may by notice in the *Gazette* declare any area defined by him, and situated in the Republic of South Africa, including the territorial waters as defined in section 2 of the Territorial Waters Act, 1963 (Act 87 of 1963), to be a special nature reserve.

(2) A declaration under subsection (1) shall only be made-

(a) for the purpose of the protection of the environment in or special characteristics of such area;

[Para. (a) substituted by s. 7 (a) of Act 79 of 1992]

(b) in respect of land or water of which the State is the owner of which is under the exclusive control of the State;

(bA) in respect of other land or water than land or water referred to in paragraph (b), at the request of and with the written consent of the owner of such land or water, as well as the holder of any right to minerals in respect of such land, and subject to the conditions agreed upon by the Minister and the owner; and

[Para. (bA) inserted by s. 7(c) of Act 79 of 1992]

(c).....

[Para. (c) deleted by s. 7 of Act 94 of 1993]

(3) The declaration of a special nature reserve shall not be withdrawn or the boundaries thereof altered except by resolution of Parliament: Provided that this subsection shall not apply to a declaration contemplated in subsection (2) (bA).

[Sub-s. (3) substituted by s. 7 (d) of Act 79 of 1992]

(4) The Minister may assign the control of a special nature reserve to any local authority or government institution, providing such assignment takes place-

- (a) with the concurrence of the local authority or government institution in question;
- (b) if a management plan for the special nature reserve is drawn up in consultation with the local authority or government institution in question and accompanies such assignment; and
- (c) with the concurrence of the owner of the land or water, as well as the holder of any right to minerals in respect of such land, contemplated in subsection (2) (bA).

[Para. (c) added by s. 7 (g) of Act 79 of 1992]

(5) The controlling local authority or government institution referred to in subsection (4) may amend the management plan with the concurrence of the Minister.

(6) Subject to the provisions of subsection (7) no person shall-

- (a) gain admittance to a special nature reserve; or
- (b) perform any activity in or on a special nature reserve.

(7) The controlling local authority or government institution referred to in subsection (4) may, on the conditions determined by it, after consultation with the Minister, in writing grant exemption from the provisions of subsection (6), to-

- (a) any scientist occupied with any specific project;
- (b) any officer charged with specific official duties;
- (c) any other person desiring to view a special nature reserve on account of its special nature or characteristics.

[Para. (c) added by s. 7(i) of Act 79 of 1992]

(8) For the purposes of subsection (6) a special nature reserve shall include the air space to a level of 500 metres above the ground level of that special nature reserve.

PART IV

CONTROL OF ENVIRONMENTAL POLLUTION

Prohibition of littering

19. (1) No person shall discard, dump or leave any litter on any land or water surface, street, road or site in or on any place to which the public has access, except in a container or at a place which has been specially indicated, provided or set apart for such purpose.

(2) Every person or authority in control of or responsible for the maintenance of any place to which the public has access shall at all times ensure that containers or places are provided which will normally be adequate and suitable for the discarding of litter by the public.

Removal of litter

19A. Notwithstanding the provisions of section 19(2) every person or authority in control of or responsible for the maintenance of any place to which the public has access, shall within a reasonable time after any litter has been discarded, dumped or left behind at such place (with the inclusion of any pavement adjacent to, or land situated between, such a place and a street, road or site used by the public to get access to such place) remove such litter or cause it to be removed.

[S. 19A inserted by s. 8 of Act 79 of 1992]

Waste Management

20. (1) No person shall establish, provide or operate any disposal site without a permit issued by the Minister of Water Affairs and that Minister may-

- (a) issue a permit subject to such conditions as he may deem fit;
- (b) alter or cancel any permit or condition in a permit;
- (c) refuse to issue a permit:

Provided that such Minister may exempt any person or category of persons from obtaining a permit, subject to such conditions as he may deem fit.

[Sub-s. substituted by s. 9 of Act 79 of 1992]

(2) Any application for a permit referred to in subsection (1) shall be in the form and be accompanied by such information as the Minister may prescribe.

(3) If the Minister of Water Affairs should require any further information to enable him to make a decision on an application for a permit referred to in subsection (1), he may demand such information from the applicant.

(4) The Minister of Water Affairs shall maintain a register in which details of every disposal site for which a permit has been issued shall be recorded.

(5) The Minister of Water Affairs may from time to time by notice in the *Gazette* issue directions with regard to-

- (a) the control and management of disposal sites in general;

(b) the control and management of certain disposal sites or disposal sites handling particular types of waste; and

(c) the procedure to be followed before any disposal site may be withdrawn from use or utilized for another purpose.

(6) Subject to the provisions of any other law no person shall discard waste or dispose of it in any other manner, except-

(a) at a disposal site for which a permit has been issued in terms of subsection (1); or

(b) in a manner or by means of a facility or method and subject to such conditions as the Minister may prescribe.

(j) chemical treatment;

(k) recreation.

(3) The Minister identifies as activity in terms of subsection (1) after consultation with-

(a) the Minister of each department of State responsible for the execution, approval or control of such activity;

(b) the Minister of State Expenditure; and

(c) the Administrator of the province concerned.

[Sub-s. (3) substituted by s. 10 of Act 79 of 1992]

Prohibition on undertaking of identified activities

22. (1) No person shall undertake an activity identified in terms of section 21 (1) or cause such an activity to be undertaken except by virtue of a written authorization issued by the Minister or by an Administrator or a local authority or an officer, which Administrator, authority or officer shall be designated by the Minister by notice in the *Gazette*.

(2) The authorization referred to in subsection (1) shall only be issued after consideration of reports concerning the impact of the proposed activity and of alternative proposed activities on the environment, which shall be compiled and submitted by such persons and in such manner as may be prescribed.

(3) The Minister or the Administrator, or a local authority or officer referred to in subsection (1), may at his or its discretion refuse or grant the authorization for the proposed activity or an alternative proposed activity on such conditions if any, as he or it may deem necessary.

(4) If a condition imposed in terms of subsection (3) is not being complied with, the Minister, any Administrator or any local authority or officer may withdraw the authorization in respect of which such condition was imposed, after at least 30 days' written notice was given to the person concerned.

[S. 22 substituted by s. 11 of Act 79 of 1992]

Limited development areas

23. (1) The Minister may by notice in the *Gazette* declare any area defined by him, as a limited development area.

(2) No person shall undertake in a limited development area any development or activity prohibited by the Minister by notice in the *Gazette* or cause such development or activity to be undertaken unless he has on application

PART V

CONTROL OF ACTIVITIES WHICH MAY HAVE DETRIMENTAL EFFECT ON THE ENVIRONMENT

Identification of activities which will probably have detrimental effect on environment

21. (1) The Minister may by notice in the *Gazette* identify those activities which in his opinion may have a substantial detrimental effect on the environment, whether in general or in respect of certain areas.

(2) Activities which are identified in terms of subsection (1) may include any activity in any of the following categories, but are not limited thereto:

(a) Land use and transformation;

(b) water use and disposal;

(c) resource removal, including natural living resources;

(d) resource renewal;

(e) agricultural processes;

(f) industrial processes;

(g) transportation;

(h) energy generation and distribution;

(i) waste and sewage disposal;

been authorized thereto by the Minister or an Administrator designated by the Minister by notice in the *Gazette*, or by a local authority designated by the Minister or such Administrator by notice in the *Gazette* or the Official Gazette, as the case may be, on the conditions contained in such an authorization.

[Sub-s. (2) substituted by s. 12 of Act 79 of 1992]

(3) in considering an application for an authorization referred to in subsection (2) the Minister, the designated Administrator or local authority may request the person to submit a report as prescribed, concerning the influence of the proposed activity on the environment in the limited development area.

[Sub-s. (3) substituted by s. 12 of Act 79 of 1992]

(4) A limited development area shall not be declared unless the Minister-

- (a) has given notice in the *Gazette* and in not fewer than one English and one Afrikaans newspaper circulating in the area in question of his intention to declare such area as a limited development area;
- (b) has permitted not fewer than 60 days for the submission to the Director-General for comment on the proposed declaration;
- (c) has considered all representations received in terms of such notice; and
- (d) has consulted each Minister charged with the administration of any law which in the opinion of the Minister related to a matter affecting the environment in that area, as well as the Administrator in question.

PART VI

REGULATIONS

Regulations regarding waste management

24. The Minister may make regulations with regard to waste management, concerning-

- (a) the manner in which an application for a permit in terms of section 20 (1) shall be submitted;
- (b) the submission, subject to the provisions of section 3 (3) of the Statistics Act, 1976 (Act 66 of 1976), of statistics on the quantity and types of waste produced;

[Para. (b) substituted by s. 13 of Act 79 of 1992]

- (c) the classification of different types of waste and the handling, storage, transport and disposal of such waste;
- (d) the reduction of waste by-
 - (i) modifications in the design and marketing of products;
 - (ii) modifications to manufacturing processes; and
 - (iii) the use of alternative products;
- (e) the utilization of waste by way of recovery, re-use or processing of waste;
- (f) the location, planning and design of disposal sites and sites used for waste disposal;
- (g) control over the management of sites, installations and equipment used for waste disposal;
- (h) the administrative arrangements for the effective disposal of waste;
- (i) the dissemination of information to the public on effective waste disposal;
- (j) control over the import and export of waste; and
- (k) any other matter which he may deem necessary or expedient in connection with the effective disposal of waste for the protection of the environment

Regulations regarding littering

24A. The Minister may make regulations with regard to the control of the dumping of litter, concerning-

- (a) the nature, design, number, provision and placing of containers for the dumping of litter;
- (b) the nature, design, number, provision and placing of notices in respect of the dumping of litter;
- (c) the cleaning, clearing away and removal of litter and the emptying and maintenance of containers for the dumping of litter;
- (d) any other facilities or methods to prevent the dumping of litter, as well as programmes for the clearing away of litter;
- (e) the powers of provincial administrations, local authorities or government institutions to control and prevent the dumping of litter; and

- (f) any other matter which he deems necessary or desirable to control and prevent the dumping of litter.

[S. 24A inserted by s. 14 of Act 79 of 1992.]

Regulations regarding noise, vibration and shock

25. The Minister may make regulations with regard to the control of noise, vibration and shock, concerning-

- (a) the definition of noise, vibration and shock;
- (b) the prevention, reduction or elimination of noise, vibration and shock;
- (c) the levels of noise, vibration and shock which shall not be exceeded, either in general or by specified apparatus or machinery or in specified instances or places;
- (d) the type of measuring instrument which can be used for the determination of the levels of noise, vibration and shock, and the utilization and calibration thereof;
- (e) the powers of provincial administrations and local authorities to control noise, vibration and shock; and
- (f) any other matter which he may deem necessary of expedient in connection with the effective control and combating of noise, vibration and shock.

Regulations regarding environmental impact reports

26. The Minister may make regulations with regard to any activity identified in terms of section 21 (1) or prohibited in terms of section 23 (2), concerning-

- (a) the scope and content of environmental impact reports, which may include, but are not limited to-
- (i) a description of the activity in question and of alternative activities;
- (ii) the identification of the physical environment which may be affected by the activity in question and by the alternative activities;
- (iii) an estimation of the nature and extent of the effect of the activity in question and of the alternative activities on the land, air, water, biota and other elements or features of the natural and man-made environments;
- (iv) the identification of the economic and social interests which may be affected by the activity in question and by the alternative activities;

- (v) an estimation of the nature and extent of the effect of the activity in question and the alternative activities on the social and economic interests;

- (vi) a description of the design or management principles proposed for the reduction of adverse environmental effects; and

- (vii) a concise summary of the finding of the environmental impact report;

- (b) the drafting and evaluation of environmental impact reports and of the effect of the activity in question and of the alternative activities on the environment; and

- (c) the procedure to be followed in the course of an after the performance of the activity in question or the alternative activities in order to substantiate the estimations of the environmental impact report and to provide for preventative or additional actions if deemed necessary or desirable.

[S. 26 amended by s. 15 of Act 79 of 1992.]

Regulations regarding limited development areas

27. The Minister may make regulations with regard to limited development areas, concerning-

- (a) the imposition of restrictions on the nature and extent of development or activities in connection with development in such area;
- (b) the procedure to be followed for obtaining permission for development in such area; and
- (c) the repair of damage to the environment in such area by unauthorized development or activities.

General regulatory powers

28. Any regulation made under this Part-

- (a) may assign functions to any provincial administration or any local authority;
- (b) may relate to the qualifications, powers and duties of officers enforcing the provisions of this Act, including the power to seize any book, document, vehicle or other thing which such officer deems necessary in the execution of his functions;
- (c) may relate to the application of the provisions of any international convention, treaty or agreement relating to the protection of the environment which has

been entered into by the Government of the Republic of South Africa or has been ratified on behalf of such Government;

- (d) may provide that an officer, local authority or government institution may by notice call upon a person contravening a provision of this Act to take certain steps or to cease certain activities within a specified period;
- (e) may provide that any person who contravenes, or who fails to comply with, any provision thereof, shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of anything in respect of which the offence was committed, and, in the event of a continuing contravention, to a fine not exceeding R250 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which such contravention continues;
- (f) may be made in respect of different regions or different matters which the Minister may deem necessary or expedient;
- (g) may relate to any matter which in terms of this Act shall or may be prescribed by regulation;
- (h) may in general relate to any matter which aims at furthering the objects of this Act;
- (i) which will entail the expenditure of State funds shall be made only with the concurrence of the Minister of State Expenditure;

(ii)

[Sub-para. (iii) deleted by s. 16 of Act 79 of 1992.]

(iii)

[Sub-para. (iii) substituted by s. 2 of Act 98 of 1991 and deleted by

s. 16 of Act 79 of 1992.]

Exemption to persons, local authorities and government institutions from application of certain provisions.

28A. (1) Any person, local authority or government institution may in writing apply to the Minister, with the furnishing of reasons, for exemption from the application of any provision of any regulation, notice or direction which has been promulgated or issued in terms of this Act.

(2) In order to enable him to make a decision on an application in terms of subsection (1), the Minister may call for further information from the applicant.

(3) The Minister may after considering an application-

(a) refuse to grant exemption;

(b) in writing grant exemption from compliance with any of or all the provisions of any regulation, notice or direction, subject to such conditions as he may deem fit.

(4) If any condition referred to in subsection (3) (b) is not being complied with, the Minister may in writing withdraw the exemption concerned or at his discretion determine new conditions.

(5) The Minister may from time to time review any exemption granted or condition determined, and if he deems it necessary, withdraw such exemption or delete or amend such condition.

[S. 28A inserted by s. 17 of Act 79 of 1992.]

PART VII

OFFENCES, PENALTIES AND FORFEITURE

Offences and penalties

29. (1) Any person-

(a) who, having been duly summoned to appear at proceedings under section 15, fails without lawful excuse so to appear; or

(b) who, having appeared as a witness at proceedings under section 15, refuses without lawful excuse to be sworn or to make affirmation or to produce any book, document or thing or to answer any question which he may be lawfully required to produce or answer.

shall be guilty of an offence.

(2) Any person-

(a) referred to in section 16 (3) who contravenes any provision of a direction issued under section 16 (2) or fails to comply therewith; or

(b) who contravenes a provision of section 18 (6) or a

condition of an exemption in terms of section 18 (7), shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) Any person who contravenes a provision of section 19 or 19A or fails to comply herewith, or fails to comply with a direction in terms of section 31A (1) or (2), or prevents any person authorized in terms of section 41A to enter upon such land or hinders him in the execution of his powers, shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding three months.

[Sub-s. (3) substituted by s. 18 of Act 79 of 1992.]

(4) Any person who contravenes a provision of section 20 (1), 20 (6), 22 (1) or 23 (2) or a direction issued under section 20 (5) or fails to comply with a condition of a permit, permission, authorization or direction issued or granted under the said provisions shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of anything in respect of which the offence was committed.

(5) Any person convicted of an offence in terms of this Act for which no penalty is expressly provided, shall be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(6) Any person convicted of an offence in terms of this Act, and who after such conviction persists in the act or omission which constituted such offence, shall be guilty of a continuing offence and liable on conviction to a fine not exceeding R250 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which he so persists with such act or omission.

(7) In the event of a conviction in terms of this Act the court may order that any damage to the environment resulting from the offence be repaired by the person so convicted, to the satisfaction of the Minister or the local authority concerned.

(8) If within a period of 30 days after a conviction or such longer period as the court may determine at the time of the conviction, an order in terms of subsection (7) is not being complied with, the Minister or local authority concerned may itself take the necessary steps to repair the damage and recover the cost thereof from the person so convicted.

(9) Notwithstanding anything to the contrary in any law contained, a court convicting any person of an offence under this Act.

Forfeiture

30. (1) Notwithstanding anything to the contrary in any law contained, a court convicting any person of an offence under this Act may declare any vehicle or other thing by means whereof the offence concerned was committed or which was used in the commission of such offence, or the rights of the convicted person to such vehicle or other thing, to be forfeited to the State.

(2) A declaration of forfeiture under subsection 1) shall not affect the rights which any person other than the convicted person may have to the vehicle or other thing concerned, if it is proved that he did not know that the vehicle or other thing was used or would be used for the purpose of or in connection with the commission of the offence concerned or that he could not prevent such use.

(3) The provisions of section 35 (3) and (4) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall *mutatis mutandis* apply to any declaration of forfeiture under this section.

PART VIII

GENERAL PROVISIONS

Powers of Minister and Administrator in case of default by local authority

3.1 (1) If in the opinion of the Administrator of the province in question, any local authority fails to perform any function assigned to it by or under this act, that Administrator may, after affording that local authority an opportunity of making representations to him, in writing direct such local authority to perform such function within a period specified in the direction, and if that local authority fails to comply with such direction, the Administrator may perform such function as if he were that local authority and may authorize any person to take all steps required for that purpose.

(2) Any expenditure incurred by the Administrator in the performance of any function by virtue of the provisions of subsection (1), may be recovered from the local authority concerned.

(3) Whenever in the opinion of the Minister a local authority has failed to perform a function in terms of sub-

section (1), the Minister may request the Administrator in question to act in terms of subsection (1), and if the Administrator fails within 90 days after the date of such request to act accordingly, the Minister may do anything which the Administrator could have done, and the provisions of subsections (1) and (2) shall apply mutatis mutandis with reference to the Minister and anything done by him or under his authority.

Powers of Minister, Administrator, local authority or government institution where environment is damaged, endangered or detrimentally affected.

31A. (1) If, in the opinion of the Minister or the Administrator, local authority or government institution concerned, any person performs any activity or fails to perform any activity as a result of which the environment is or may be seriously damaged, endangered or detrimentally affected, the Minister, Administrator, local authority or government institution, as the case may be, may in writing direct such person-

- (a) to cease such activity; or
- (b) to take such steps as the Minister, Administrator, local authority or government institution, as the case may be, may deem fit,

within a period specified in the direction, with a view to eliminating, reducing or preventing the damage, danger or detrimental effect.

(2) The Minister or the Administrator, local authority or government institution concerned may direct the person referred to in subsection (1) to perform any activity or function at the expense of such person with a view to rehabilitating any damage caused to the environment as a result of the activity or failure referred to in subsection (1), to the satisfaction of the Minister, Administrator, local authority or government institution, as the case may be.

(3) If the person referred to in subsection (2) fails to perform the activity or function, the Minister, Administrator, local authority or government institution, depending on who or which issued the direction, may perform such activity or function as if he or it were that person any may authorize any person to take all steps required for that purpose.

(4) Any expenditure incurred by the Minister, an Administrator, a local authority or a government institution in the performance of any function by virtue of the provisions of subsection (3), may be recovered from the person concerned.

[S. 31A inserted by s. 19 of Act 790 of 1992.]

Publication for comment

32. (1) If the Minister, the Minister of Water Affairs, an Administrator or any local authority, as the case may be, intends to-

- (a) issue a regulation or a direction in terms of the provisions of this Act;
- (b) make a declaration or identification in terms of section 16 (1), 18 (1), 21 (1) or 23 (1); or
- (c) determine a policy in terms of section 2, a draft notice shall first be published in the *Gazette* or the *Official Gazette* in question, as the case may be.

(2) The draft notice referred to in subsection (1) shall include-

- (a) the text of the proposed regulation, direction, declaration, identification or determination of policy;
- (b) a request that interested parties shall submit comments in connection with the proposed regulation, direction, declaration, identification or determination of policy within the period stated in the notice, which period shall not be fewer than 30 days after the date of publication of the notice;
- (c) the address to which such comments shall be submitted.

(3) If the Minister, Administrator or local authority concerned thereafter determines on any alteration of the draft notice published as aforesaid, it shall not be necessary to publish such alteration before finally issuing the notice.

Delegation

33. The Minister, the Minister of Water Affairs, an Administrator, a local authority or a government institution may on such conditions as he or it may deem fit delegate or assign any power or duty conferred upon or assigned to him or it by or under this Act, excluding any power referred to in sections 2, 16 (2), 18 (1), 18 (4), 24, 25, 26, 27 and 28, to, respectively, any officer or employee of the Department, the Department of Water Affairs or the provincial administration or local authority or government institution concerned.

[S. 33 substituted by s. 20 of Act 79 of 1992.]

Compensation for loss

34. (1) If in terms of the provisions of this Act limitations are placed on the purposes for which land may be

used or on activities which may be undertaken on the land, the owner of, and the holder of a real right in, such land shall have a right to recover compensation from the Minister or Administrator concerned in respect of actual loss suffered by him consequent upon the application of such limitations.

(2) The amount so recoverable shall be determined by agreement, entered into between such owner or holder of the real right and the Minister or administrator, as the case may be, with the concurrence of the Minister of State Expenditure.

(3) In the absence of such agreement the amount so to be paid shall be determined by a court referred to in section 14 of the Expropriation Act, 1975 (Act 63 of 1975), and the provisions of that section and section 15 of that Act shall *mutatis mutandis* apply in determining such amount.

Appeal to Minister or Administrator

35. (1) Any person who feels aggrieved at a decision referred to in section 20 in respect of which a power has been delegated to an officer or employee under section 32 may appeal against such decision to the Minister of water Affairs in the prescribed manner, within the prescribed period and upon payment of the prescribed fee.

(2) Any person who feels aggrieved at a decision of an officer or employee enforcing a provision of this Act in respect of a protected natural environment may appeal against such decision to the Administrator concerned, in the prescribed manner, within the prescribed period and upon payment of the prescribed fee.

(3) Subject to the provisions of subsections (1) and (2) any person who feels aggrieved at a decision of an officer or employee exercising any power delegated to him in terms of this Act or conferred upon him by regulation, may appeal against such decision to the Minister in the prescribed manner, within the prescribed period and upon payment of the prescribed fee.

(4) The Minister, the Minister of Water Affairs or an Administrator, as the case may be, may, after considering such an appeal, conform, set aside or vary the decision of the officer or employee or make such order as he may deem fit, including an order that the prescribed fee paid by the applicant or such part thereof as the Minister or Administrator concerned may determine be refunded to that person.

Review by court

36. (1) Notwithstanding the provisions of section 34, any person whose interests are affected by a decision of

an administrative body under this Act, may within 30 days after having become aware of such decision, request such body in writing to furnish reasons for the decision within 30 days after receiving the request.

(2) Within 30 days after having been furnished with reasons in terms of subsection (1), or after the expiration of the period within which reasons had to be so furnished by the administrative body, the person in question may apply to a division of the Supreme Court having jurisdiction, to review the decision.

Restriction of liability

37. No person, including the State, shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a duty conferred or imposed in terms of this Act.

Entering into and ratification of conventions, treaties and agreements

38. (1) The State President may by proclamation in the *Gazette* add to this Act any Schedule containing the provisions of an international convention, treaty or agreement relating to the protection of the environment which has been entered into or ratified by the Government of the Republic.

(2) The State President may by proclamation in the *Gazette* amend the Schedule to give effect to any amendment of or addition to any convention, treaty or agreement referred to in subsection (1) which may from time to time be effected and is ratified by the Government of the Republic.

(3) The Minister shall lay a copy of any proclamation issued under subsection (1) or (2), on the Table in Parliament within 14 days after publication thereof in the *Gazette* if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

Agreements with self-governing territories

39. The Minister may enter into an agreement with the government of a self-governing territory as defined in section 38 of the National States Constitution Act, 1971 (Act 21 of 1971), in order to promote the objects of this Act.

State bound

40. The provisions of this Act shall bind the State, including any provincial administration, except in so far as criminal liability is concerned.

Application of Act

41. (1) This Act shall also apply in respect of the Prince Edward Islands as defined in section 1 of the Prince Edward Islands Act, 1948 (Act 43 of 1948).

(2) The provisions of this Act shall not apply in respect of any matter to which the provisions of the National Monuments Act, 1969 (Act 28 of 1969), apply.

Right to enter upon land

41A. (1) Any person authorized thereto in writing by the Minister, may after reasonable notice to the owner or occupier of any land, at any reasonable time enter upon that land in order to investigate whether any action is necessary in order to give effect to the objects of this Act, or to determine whether the provisions of this Act or a regulation, notice, authorization, instruction or any direction promulgated, issued, granted or made thereunder or any condition imposed thereunder or contained in any authorization, instruction or direction has been complied with.

(2) A person authorized under subsection (1) shall not exercise any power or perform any duty unless he is in possession of the authorization concerned.

(3) An authorized person shall produce his authorization at the request of any person having a material interest in the matter concerned.

[S. 41A inserted by s. 21 of Act 79 of 1992.]

Repeal of laws, and savings

42. (1) Subject to the provision of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) Anything done under any provision of a law repealed by subsection (1) and which could have been done under a provision of this Act shall be deemed to have been done under the latter provision.

Amendment of section 1 of Act 88 of 1967, as amended by section 1 of Act 73 of 1975 and amended by section 1 of Act 104 of 1977, section 1 of Act 51 of 1981, section 1 of Act 87 of 1983 and section 1 of Act 92 of 1985

43. Amends section 1 of the Physical Planning Act 88 of 1967 by deleting the definition of 'nature area'.

Amendment of section 4 of Act 88 of 1967

44. (1) Amends section 4 of the Physical Planning Act 88 of 1967 by deleting paragraph (b) of subsection (1).

(2) At the commencement of this Act, land reserved as a nature area in terms of section 4 (1) (b) of the Physical Planning Act, 1967 (Act 88 of 1967), shall, notwithstanding the provision of subsection (1), be deemed to be declared a protected natural environment in terms of section 16 (1) of this Act.

[Sub-s. (2) substituted by s. 2 of Act 115 of 1992.]

Amendment of section 6 of Act 88 of 1967

45. Amends section 6 of the Physical Planning Act 88 of 1967 by substituting subsection (2) (e) (i).

Short title

46. This act shall be called the Environment Conservation Act, 1989.

SCHEDULE

No. and year of law	Title	Extent of repeal
Act 100 of 1982	Environment Conservation Act, 1982 ...	The whole
Act 45 of 1983	Environment Conservation Amendment Act 1983 ...	The whole
Act 61 of 1987	Environment Conservation Amendment Act, 1987 ...	The whole

Environment Conservation Act

<p>Schedule</p> <p>Schedule</p> <p>WET OP OMGEWINGSBEWARING</p> <p>G.K. 1986/1990 Wet No. 73 van 1989</p> <p>DEPARTEMENT VAN OMGEWINGSAKE</p> <p>GOEWERMENSKENNISGEWING</p> <p>No. 1986] [24 Augustus 1990</p> <p>AANWYS VAN STOWWE AS AFVAL.-WET OP OMGEWINGSBEWARING, 1989</p> <p>Vir die doeleindes van die omskrywing van "afval" in artikel 1 van die Wet op Omgewingsbewaring, 1989 (Wet No. 73 van 1989), wys ek, Gert Jeremias Kotze, in my hoedanigheid as Minister van Omgewingsake, hierby aan as 'ngewenste of oortollige neweproduk, afskeiding, oorskiet of restant van enige proses of handeling, enige stof, hetsy gasagtig, vloeibaar of solied of enige kombinasie daarvan, afkomstig van enige woon-, handels-of nywerheidsgebied wat-</p>	<p>Act No. 73 of 1989</p> <p>(ii) enige stof wat in 'n rottingsput- of stapelrioolsteisel gestort word en enige water of uitvloeisel waarna in artikel 21(2) van die Waterwet, 1956 verwys word;</p> <p>(iii) bourommel wat vir opvullings- of gelykmaarkdoeleindes gebruik word;</p> <p>(iv) enige radio-aktiewe stof wat weggedoen word in ooreenstemming met die bepalings van die Wet op Kernenergie, 1982 (Wet No. 92 van 1982);</p> <p>(v) enige minerale, uitskot, afvalrots of slyk wat voortgebring word of ontstaan uit bedrywighede by 'n bedryf soos omskryf in artikel 1 van die Wet op Myne en Bedrywe, 1956 (Wet No. 27 van 1956); en</p> <p>(vi) as wat voortgebring word of ontstaan uit bedrywighede by 'n onderneming vir die ontwikkeling van elektrisiteitengevolge die bepalings van</p> <p>DEPARTMENT OF ENVIRONMENT AFFAIRS GOVERNMENT NOTICE</p> <p>No. 1986] [24 August 1990</p> <p>IDENTIFICATION OF MATTER AS WASTE.- ENVIRONMENT CONSERVATION ACT, 1989</p> <p>For the purposes of the definition of "waste" in section 1 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), I Gert Jeremias Kotze, in my capacity as Minister of Environment Affairs, hereby identify as an undesirable or superfluous by-product, emission, residue or remainder of any process or activity, any matter, gaseous, liquid or solid or any combination thereof, originating from any residential, commercial or industrial area, which-</p>
<p>(a) deur enige persoon weggegooi word; of</p> <p>(b) deur enige persoon byeengebring en opgeberg word met die doel om dit uiteindelik weg te gooi met of sonder enige voorafgaande behandeling in verband met die weggooi daarvan; of</p> <p>(c) deur enige persoon opgeberg word met die doel om dit te hersikler of weer te gebruik of enige bruikbare produk daaruit te ekstraheer, uitgesonderd-</p> <p>(i) water wat vir nywerheidsdoeleindes gebruik is of enige uitvloeisel wat daardeur voortgebring word of daardeur ontstaan, wat gestort word ter voldoening van die bepalings van artikel 21 (1) van die Waterwet, 1956 (Wet No. 54 van 1956K) of op gesag van 'n vrystelling verleen kragtens artikel 21(4) van die genoemde Wet;</p>	<p>(a) is discarded by any person; or</p> <p>(b) is accumulated and stored by any person with the purpose of eventually discarding it with or without prior treatment connected with the discarding thereof; or</p>

- (c) is stored by any person with the purpose or recycling, re-using or extracting a usable product from such matter, excluding-
- (i) water used for industrial purposes or any effluent produced by or resulting from such use which is discharged in compliance with the provisions of section 21(1) of the Water Act, 1956 (Act No. 54 of 1956) or on authority of an exemption granted under section 21(4) of the said Act;
- (ii) any matter discharged into a septic tank or french drain sewerage system and any water or effluent contemplated by section 21(2) of the Water Act, 1956;
- (iii) building rubble used for filling or levelling purposes;
- (iv) any radio-active substance discarded in compliance with the provisions of the Nuclear Energy Act, 1982 (Act No. 92 of 1982);
- (v) any minerals, tailings, waste-rock or slimes produced by or resulting from activities at a mine or works as defined in section 1 of the Mines and Works Act, 1956 (Act No. 27 of 1956); and
- (vi) ash produced by or resulting from activities at an undertaking for the generation of electricity under the provisions of the Electricity Act, 1987 (Act No. 41 of 1987).

G.J. KOTZÉ,

Minister of Environment Affairs and of water Affairs

DEPARTMENT OF ENVIRONMENT AFFAIRS GOVERNMENT NOTICE

No. R. 154] [10 January 1992

NOISE CONTROL REGULATIONS IN TERMS OF SECTION 25 OF THE ENVIRONMENT CONSERVATION ACT, 1989 (ACT NO. 73 OF 1989)

The Minister of Environment Affairs has under section 25 of the Environment Conservation Act (Act No. 73 of 1989), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates-

“ambient south level” means the reading on an integrat-

ing impulse sound level meter taken at a measuring point in the absence of any alleged disturbing noise at the end of a total period of at least 10 minutes, after such meter had been put into operation;

“animal” also includes birds and poultry;

“controlled area” means a piece of land designated by a local authority where, in the case of-

(a) road transport noise in the vicinity of a road-

(i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period extending from 06:00 to 24:00 while such meter is in operation, exceeds 65 dBA; or

(ii) the equivalent continuous “A”-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1.4 metres, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SABS 0210-1986, titled: “Code of practice for calculating and predicting road traffic noise”, published under Government Notice No. 358 of 20 February 1987, and projected for a period of 15 years following the date on which the local authority has made such designation, exceeds 65 dBA;

(b) aircraft noise in the vicinity of an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the local authority has made such designation, exceeds 65 dBA; or

(c) industrial noise in the vicinity of an industry-

(i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter is in operation, exceeds 61 dBA; or

(ii) the calculated outdoor equivalent continuous “A”-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period of 24 hours, exceeds 61 dBA;

“dBA” means the value of the sound pressure level in decibels, determined using a frequency weighting network A, and derived from the following equation:

$$L \quad P \quad 2$$

$$P = A \quad , \text{where-}$$

$$A \quad P$$

$$o$$

P

A = the "A"-weighted sound pressure; and

P

p_0 = the reference sound pressure

$p_0 = 20 \text{ } \mu\text{ Pa}$;

"disturbing noise" means 'n noise level which exceeds the zone sound level or, if no zone sound level has been designated, a noise level which exceeds the ambient sound level at the same measuring point by 7 dBA or more;

"erect" also means alter, convert, extend or re-erect;

"integrating impulse sound level meter" means a device which integrates a function of the root mean square value of sound pressure over a period of time while it is set on "j"-time weighting and indicates the result in dBA;

"measuring point", relating to-

- (a) a piece of land from which an alleged disturbing noise emanates, means a point outside the property projection plane where an alleged disturbing noise, in the opinion of a local authority, shall be measured in accordance with the provisions of regulation 6;
- (b) a building with more than one occupant, means a point in or outside the building where an alleged disturbing noise, in the opinion of a local authority, shall be measured in accordance with the provisions of regulation 6; and
- (c) a stationary vehicle, means a point as described in SABS 0181-1981, titled: "Code of Practice for the measurement of noise emitted by road vehicles when stationary", published under General Notice 463 of 9 July 1982, where a measuring microphone shall be placed;

"noise level" means the reading on an integrating impulse sound level meter taken at a measuring point in the presence of any alleged disturbing noise at the end of a total period of at least 10 minutes, after such meter had been put into operation, and, if the alleged disturbing noise has a discernible pitch, to which 5 dBA has been added;

"noise nuisance" means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person;

"noisiness index" means a number expressed in dBA as defined in SABS 0117-1974, titled: "Code of practice

for the determination and limitation of disturbance around an aerodrome due to noise from aeroplanes", published under Government Notice No. 151 of 1 February 1985;

"plant" means a refrigeration machine, air-conditioners, fan system, compressor, power generator or pump;

"property projection plane" means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space;

"recreational vehicle" also means-

- (a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;
- (b) a model aircraft, vessel or vehicle
- (c) any aircraft or helicopter used for sport or recreational purposes; or
- (d) any other conveyance or model which in the opinion of a local authority is a recreational vehicle;

"sound level" means the reading on a sound level meter taken at a measuring point;

"sound level meter" means a device measuring sound pressure while it is set on "F"-time weighting and indicates the result in dBA;

"the Act", means the Environment Conservation Act, 1989 (Act No. 73 of 1989);

"Zone sound level" means a derived dBA value determined indirectly by means of a series of measurements, calculations or table readings and designated by a local authority for an area.

Powers of a local authority

2. A local authority may-

- (a) for the purposes of applying these Regulations, at any reasonable time enter a premises without prior notice-
 - (i) to conduct any appropriate examination, enquiry or inspection as it may deem expedient thereon; and
 - (ii) to take any steps it may deem necessary;
- (b) in order to determine whether a vehicle using any road in the area of jurisdiction of that local authority, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of these Regulations, instruct the owner of person in control of the vehicle-

- (i) to have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle on a date and at a time and place determined by the local authority in writing;
 - (ii) to stop the vehicle or cause it to be stopped;
 - (iii) to have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle;
 - (c) if a noise emanating from a building, premises, vehicle, recreational vehicle or street is a disturbing noise or noise nuisance, or may in the opinion of the local authority concerned be a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible therefor, or the owner or occupant of such building or premises from which or from where such noise emanates or may emanate, or all such persons, to discontinue or cause to be discontinued such noise, or to take steps to lower the level of noise to a level conforming to the requirements of these Regulations within the period stipulated in the instruction: Provided that the provisions of this paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or aircraft which are not used as recreational vehicles;
 - (d) before changes are made to existing facilities or existing uses of land or buildings, or before new buildings are erected, in writing require that noise impact assessments or tests are conducted to the satisfaction of that local authority by the owner, developer, tenant or occupant of the facilities, land or buildings or that, for the purposes of regulation 3 (b) of (c), reports or certificates in relation to the noise impact to the satisfaction of that local authority are submitted by the owner, developer, tenant or occupant to the local authority on written demand;
 - (e) if excavation work, earthmoving work, pumping work, drilling work, construction work or demolition work or any similar activity, power generation or music causes a noise nuisance or a disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the local authority may deem necessary have been complied with;
 - (f) designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area by notice in the *Official Gazette* concerned;
 - (g) if the owner of person in charge of an animal fails to comply with an instruction referred to in paragraph (c), subject to the appropriate provision of any other law, impound or cause to be impounded such animal;
 - (h) subject to the provisions of regulation 8 and the appropriate provisions of any law, attach a vehicle if the sound level of such vehicle exceeds the sound level referred to in regulation 3 (j) by more than 5 dBA;
 - (i) in writing request the owner or person in control of a plant referred to in regulation 3 (k) to furnish forthwith proof to its satisfaction that the plan shall not cause a disturbing noise;
 - (j) impose such conditions as it may deem fit when granting any permission or exemption in terms of these Regulations;
 - (k) incorporate conditions in relation to noise control with the establishment of a new township, in order to implement the objectives of the Act;
 - (l) subject to the appropriate provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of the provisions of these Regulations: Provided that road traffic signs and notices be placed on private property only with the permission of the owner;
 - (m) designate zone sound levels for specific areas and for specific times by notice in the *Official Gazette* concerned.
- General prohibition**
3. No person shall-
- (a) establish a new township unless the lay-out plan concerned, if required by a local authority, indicates in accordance with the specifications of the local authority, the existing and future sources of noise, with concomitant dBA values which are foreseen in the township for a period of 15 years following the date on which the erection of the buildings in and around the township commences;
 - (b) erect educational, residential, flat, hospital, church or office buildings in an existing township within a controlled area, unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 40 dBA:

Provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements;

- (c) make changes to existing facilities or existing uses of land or buildings or erect new buildings, if it shall in the opinion of a local authority house or cause activities which shall, after such change or erection, cause a disturbing noise, unless precautionary measures to prevent the disturbing noise have been taken to the satisfaction of the local authority;
- (d) build a road or change an existing road, or alter the speed limit on a road, if it shall in the opinion of the local authority concerned cause an increase in noise in or near residential areas, or office, church, hospital or educational buildings, unless noise control measures have been taken in consultation with the local authority concerned to ensure that the land in the vicinity of such road shall not be designated as a controlled area;
- (e) situate educational, residential, hospital or church even within a controlled area in a new township or an area which has been rezoned: Provided that such situation may be allowed by the local authority concerned in accordance with the acoustic screening measures mentioned by that local authority in the approved building plans;
- (f) fail to comply with a directive, instruction or notice issued by a local authority in terms of these Regulations;
- (g) notwithstanding the provisions of paragraph (h), stage an organised open-air music festival or similar gathering without the prior consent in writing of a local authority;
- (h) subject to the provisions of regulations 4 en 5 (e), operate or play a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound, or allow it to be operated or played, in a public place, if the noise level, measured at any point which may be occupied by a member of the public, exceeds 95 dBA, unless the following warning is displayed in both official languages and in legible form in a conspicuous place at each entrance to such place;
 - (i) use any power tool or power equipment for construction, earth drilling or demolition works, or allow it to be used, in a residential area during the following periods of time:
 - (i) Before 06:00 and after 18:00 from Monday to Saturday; and
 - (ii) at any time on any Sunday, Good Friday, Ascension Day, Day of the Covenant and Christmas Day, or any other day as may be determined by a local authority;
 - (j) drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured in accordance with the procedure prescribed in SABS 0181-1981, titled: "Code of Practice for the measurement of noise emitted by road vehicles when stationary", published under General Notice No. 463 of 9 July 1982, exceeds the sound level indicated in the second or third column, as the case may be, of the following table opposite to the type of vehicle indicated in the first column of that table:
 - (k) if required by a local authority, install, replace or modify a plant with a total input power exceeding 10 kilowatts on any premises, unless the local authority has been notified by the owner of the plant in writing at least 14 days before such installation, replacement or modification of-
 - (i) the particulars of the plant;
 - (ii) the number, street address and title deed description of the premises concerned; and
 - (iii) the nature of and the date on which the installation, replacement or modification shall commence:

Provided that if an existing plant had to be replaced by necessity without preceding notification to the local authority, the local authority shall be notified thereof by the owner of the plant in writing within 14 days after the replacement of the plant;
 - (l) tamper with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice, placed in a position by or on behalf of a local authority;

WARNING: SOUND LEVELS INSIDE MAY CAUSE PERMANENT HEARING DAMAGE;

WAARSKUWING: KLANKPEILE BINNE KAN PERMANENTE GEHOORSKADE VEROORSAAK

- (ii) fail or refuse to give information which may lawfully be required of him to such employee;
- (iii) give false or misleading information to such employee knowing that it is false or misleading.

Prohibition of disturbing noise

5. No person shall-

- (a) cause a noise nuisance, or allow it to be caused, by operating or playing any radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;
- (b) offer any article for sale by shouting or ringing a bell, or by allowing shouting or the ringing of a bell, in a manner which may cause a noise nuisance;
- (c) allow an animal owned or controlled by him to cause a noise nuisance;
- (d) build, repair, rebuild, modify, operate or test a vehicle, vessel or aircraft on residential premises, or allow it to be built, repaired, rebuilt, modified, operated or tested, if it may cause a noise nuisance;
- (e) use or discharge any explosive, firearm or similar device which emits impulsive sound, or allow it to be used for discharged, if it may cause a noise nuisance, except with the prior consent in writing of the local authority concerned and subject to such conditions as the local authority may deem necessary;
- (f) on a piece of land designated by a local authority by means of a notice on that piece of land and in the press in both official languages, or in the air-space above that piece of land-
 - (i) move about on or in a recreational vehicle;
 - (ii) exercise control over a recreational vehicle; or
 - (iii) as owner or person in control of the piece of land concerned, allow that on that piece of land, or in the air-space above that piece of land-
 - (aa) is being moved about on or in a recreational vehicle; or
 - (bb) control is being exercised over a recreational vehicle, if it may cause a noise nuisance;
- (g) except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance;

- (h) operate any machinery, saw, sander, drill, grinder, lawnmower, power garden implement or similar device in a residential area, or allow it to be operated, if it may cause a noise nuisance;
- (i) load, unload, open, shut or in any other way handle a crate, box container, building material, rubbish container or similar article, or allow it to be loaded, unloaded, opened, shut or handled, if it may cause a noise nuisance;
- (j) drive a vehicle on a public road in such a manner that it may cause a noise nuisance.

Use of measuring instruments

6. (1) The measurement of dBA values in respect of controlled areas, ambient sound levels or noise levels in terms of these Regulations shall be done as follows:

- (a) Outdoor measurements on a piece of land: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the ground and at least 3,5 metres away from walls, buildings or other sound reflecting surfaces; and
 - (b) indoor measurements in a room or enclosed space, which is not ventilated mechanically: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the floor and at least 1,2 metres away from the wall, with all the windows and outer doors of the room or enclosed space entirely open: Provided that the windows and doors are closed for indoor measurements in rooms or enclosed spaces which are mechanically ventilated.
- (2) Any person taking readings, shall ensure that-
- (a) the microphone of an integrating impulse sound level meter is at all times provided with a windshield;
 - (b) the measuring instruments are operated strictly in accordance with the manufacturer's instructions; and
 - (c) sound measuring instruments are checked annually by the South African Bureau of Standards or a calibration laboratory approved by the Minister in order to comply with the appropriate specifications for accuracy.

Exemptions

7. (1) The provisions of these Regulations shall not apply, if-
- (a) the emission of sound is for the purposes of warning people of a dangerous situation; or

(b) the emission of sound takes place during an emergency.

(2) Any person may by means of a written application, in which the reasons are given in full, apply to the local authority concerned for exemption from any provision of these Regulations.

(3) An exemption shall, if approved, be granted by a local authority in writing, and the conditions under which and the period for which such exemption is granted, shall be stipulated in such exemption.

(4) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by a local authority under subregulation (3): Provided that if activities are commenced before such undertaking has been submitted to the local authority concerned, the exemption shall lapse.

(5) If any condition of exemption is not complied with, the exemption shall lapse forthwith.

Attachment

8. (1) A vehicle attached under regulation 2 (h) shall be kept in safe custody by a local authority.

(2) A local authority may lift the attachment contemplated in regulation 2 (h) if the owner or person in control of the vehicle concerned has been instructed in writing by such authority-

(a) to repair or to modify the vehicle concerned or cause it to be repaired or to be modified; and

(b) to have any inspection or test as such authority may deem necessary conducted on the vehicle on a date and at a time and place mentioned in the instruction.

Penalties

9. Any person who contravenes or fails to comply with a provision of regulation 3, 4 or 5, shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and, in the event of a continuing contravention, to a fine not exceeding R250, or to imprisonment for a period not exceeding twenty days, or to both such fine and such imprisonment, for each day on which sub contravention continues.

Commencement

10. These Regulations shall come into operation on the date of publication.

Environment Conservation Act Extension Act, 1996

VAN DIE REPUBLIEK VAN SUID-AFRIKA

(Afrikaans text signed by the President)

[]Registered at the Post Office as a Newspaper[]

(Assented to 12 November 1996)

[] As'n Nuusblad by die Poskantoor Geregistreer[]

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

CAPE TOWN, 27 NOVEMBER 1996

Vol.377 No. 17610

KAAPSTAD, 27 NOVEMBER 1996

PRESIDENT'S OFFICE

No.189927 November 1996

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

No.100 of 1996: Environment Conservation Act Extension Act, 1996.

KANTOOR VAN DIE PRESIDENT

No.189927 November 1996

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:-

No.100 van 1996: Wet op die Uitbreiding van die Wet op Omgewingsbewing, 1996.

Act No. 100, 1996

ENVIRONMENT CONSERVATION ACT EXTENSION ACT, 1996

ACT

To extend the application of the Environment Conservation Act, 1989, to that area of the Republic which constituted national territories of certain former states and self-governing entities; and to provide for matters connected therein.

Definitions

1. In this Act, unless the context otherwise indicates -

“affected area” means the national territory of the former Transkei Bophuthatswana, Venda and Ciskei, and the areas in respect of which the former self-governing territories of Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and Qwaqwa were established;

“Minister” means the Minister of Environmental Affairs and Tourism;

“the Act” means the Environment Conservation Act, 1989 (Act No.73 of 1989).

Extension of Act 73 of 1989

2. The Application of the Act, and all amendments thereof, is hereby extended to the affected area.

Extension of regulations and notices to affected area

3. The application of all regulations and notices made or issued by the Minister in terms of the Act is hereby extended to the affected area.

Conflict of provisions

4. In the case of any conflict between provisions of the Act, regulations or notices referred to in sections 2 and 3, and the provisions of any law, regulation, notice or other measure having the force of law which applied in the affected area immediately prior to the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), the provisions of the Act, and the firstmentioned regulations and notices shall prevail.

Short title

5. This Act shall be called the Environment Conservation Act Extension Act, 1996.

STAATSKOERANT, 27 NOVEMBER 1996 No.17610

WET OP DIE UITBREIDING VAN DIE WET OP OMGEWINGSBEWARING,

1996 Wet No.100, 1996

WET

Om die toepassing van die Wet op Omgewingsbewing, 1989, uit te brei tot daardie area van die Republiek wat die nasionale gebiede van sekere voormalige state en selfregerende entiteite uitgemaak het; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die President geteken.)

(Goedgekeur op 12 November 1996.)

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg;-

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet -

“die Wet” die Wet op Omgewingsbewing, 1989 (Wet No.73 van 1989); “geaffekteerde gebied” die nasionale gebied van die voormalige Transkei,

Bophuthastwana, Venda en Ciskei, en die gebiede ten opsigte waarvan die voormalige selfregerende gebiede van Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa en Qwaqwa ingestel was;

“Minister” die Minister van Omgewingsake en Toerisme.

Uitbreiding van Wet 73 van 1989

2. Die toepassing van die Wet, en alle wysignings daarvan, word hierby tot die geaffekteerde gebied uitgebrei.

Uitbreiding van regulasies en kennisgewings tot geaffekteerde gebied

3. Die toepassing van alle regulasies en kennisgewings uitgevaardig of uitgereik deur die Minister ingevolge die Wet word hierby tot die geaffekteerde gebied uitgebrei.

Botsing van bepalings

4. In die geval van ‘n botsing tussen die bepalings van die Wet, regulasies of kennisgewings in artikels 2 en 3 vermeld, en die bepalings van enige wet, regulasie kennisgewing of ander maatregel met regsrag wat in die geaffekteerde gebied onmiddellik voor die inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No.200 van 1993), gegeld het, geld die bepalings van die Wet en die eersgenoemde regulasies en kennisgewings.

Kort titel

5. Hierdie Wet heet die Wet op die Uitbreiding van die Wet op Omgewingsbewing, 1996.

SWAZILAND

The Swaziland Environment Authority Act, 1992 (Act No. 15 of 1992)

AN ACT to establish the Swaziland Environment Authority.

ENACTED by the King and the Parliament of Swaziland.

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
2. Interpretation.
3. Application.
4. Establishment of the Authority.
5. Functions and powers of the Authority.
6. Composition of the Authority.
7. Chairman of the Authority.
8. Vacation of office by Authority members.
9. Meetings of the Authority.
10. Committees of the Authority.
11. Director of the Authority.
12. Immunity from civil liability.
13. Research and records.
14. Annual reports.
15. Remuneration.
16. Offences.
17. Appeals.
18. Regulations.

19. Supremacy of the Act.

Short title

1. The Act may be cited as the Swaziland Environment Authority Act, 1992.

Interpretation

2. In this Act, unless the context otherwise requires-

“Authority” means the Swaziland Environment Authority established under section 4;

“Chairman” means the Chairman of the Authority appointed under section 7.

“Environment” means, without being limited to, the atmosphere water in all its forms, land, soil and subsoil flora, fauna, energy sources, minerals, topographical formations with energy potential, geothermal resources, living resources, landscape resources and other elements and factors such as residues, garbage, waste and refuse, noise, living conditions in human settlements and man-made products;

“Director” means the Director appointed under section 11;

“Minister” means the Minister responsible for environment protection;

“pollution” means any alteration of the physical, chemical, or biological properties of the atmosphere, water, soil and subsoil by direct or indirect human action to such an extent that the results are harmful to human and animal life, safety or welfare and to the environment in general;

“Public Officer” means a public officer as defined in the Civil Service Order, No. 16 of 1973;

Application

3. The provisions of this Act and the decisions of the

Authority shall bind the Government and any other persons, bodies and institutions.

Establishment of the Authority

4. There is hereby established the Swaziland Environment Authority which shall exercise the functions and powers conferred upon it by this Act.

Functions and powers of the Authority

5. (1) The functions and powers of the Authority shall be to:

- (a) establish standards and guidelines relating to the pollution of the air, water and land as well as those relating to noise and other forms of environmental pollution;
- (b) assist the Minister in formulating policies relating to environmental matters;
- (c) develop in co-operation with other Government authorities, as appropriate, economic measures to encourage environmentally sound and sustainable activities;
- (d) co-ordinate the activities of all bodies concerned with environmental matters and to serve as the main channel of communication between these bodies and the Government;
- (e) monitor trends in the state of the environment and institute measures for its protection and improvement for implementation by the appropriate designated authorities or bodies in the country, or, where necessary, by the Authority itself acting in collaboration with other bodies;
- (f) undertake, conduct and promote investigations, studies, surveys, research, analysis, into environmental matters of immediate or long term relevance to Swaziland;
- (g) promote, in collaboration with other appropriate bodies and organizations, training and education programmes in the field of environment with a view to creating national awareness in all sectors and upgrading national capabilities and skills in these fields.
- (h) participate in National Development Planning to ensure that environmental considerations are included in the planning process and require that Ministries consider environmental impacts of all projects before these are approved;
- (i) serve as the official focal point for co-operation and

liaising with national and international organizations on environmental matters;

- (j) without prejudice to the economic and social advance of Swaziland, to ensure the observance of proper safeguards in the planning and execution of all development projects, including those already in existence, that are likely to interfere with the quality of the environment.
 - (k) advise the Minister and to make appropriate recommendations either upon request or on its own initiative on any environmental problems or trends of any importance;
 - (l) establish guidelines for preparing Environmental Impact Assessments on all development projects;
 - (m) review and approve from an environmental stand point projects with potential impact on the environment;
 - (n) control all forms of environmental pollution including pollution caused by the discharge of toxic wastes into the air, water and land in the manufacture of toxic or hazardous chemicals;
 - (o) institute measures for the co-ordination and enforcement of environmental protection legislation and of international conventions and for the prosecution of the offences in co-operation with relevant bodies and police forces;
 - (p) perform such other functions as may be assigned to it by the Minister or are incidental or conducive to the exercise by the Authority of any or all of these functions.
- (2) To enable the Authority to carry out its functions and exercise its powers under this section, the Authority shall review all projects with a view to determining their potential impact on the environment.
- (a) If upon the review of any project the Authority is satisfied:-
 - (i) that its potential impact on the environment is minimal it may approve the project;
 - (ii) that its potential impact on the environment is substantial it may require the person or body that intends to implement the project to submit to the Authority an environmental impact assessment in accordance with the guidelines established under Section 5(1)(1).
- (3) Subject to this Act, the Authority may delegate to another body or persons any of its functions under this

section and may impose conditions with respect to the exercise of such delegated functions as it may think fit:

Provided that nothing in this subsection shall be construed so as to absolve the Authority from ultimate responsibility for any act done by any such body or person in pursuance of such delegation.

(4) (a) The Authority or any other body or person authorized by the Authority may:-

(i) request in writing from any person or by summons require any person to attend at a time and place specified in the summons, to give any information which the Authority or any such member or staff of the Authority consider necessary for the purposes of giving effect to this Act;

(ii) enter and inspect any premises where the Authority has reason to believe the provisions of this Act are being contravened or are reasonably likely to be contravened;

(iii) subject to subsection (5), close any premises or stop any operation, works, or project that is in its or his opinion is causing or it reasonably likely to cause danger to the environment or the public.

(b) In this subsection "premises" include any land or building other than a building used exclusively as a dwelling house.

(5) The Authority shall not exercise its powers under subsection(4)(a)(iii) unless it has given notice to the person or body concerned to rectify or remove the cause of the danger or potential danger and that person or body has refused or failed to do so within the period specified in the notice.

Composition of the Authority

6. (1) The Authority shall consist of:-

(a) A Chairman appointed by the Minister under section 7;

(b) Eight members being the Principal Secretaries of the Ministries of Agriculture and Co-operatives, Works and Construction, Commerce and Industry, Economic Planning and Development, Natural Resource and Energy, Housing and Urban Development, Education and health or their representatives who shall be senior officers;

(c) four persons from different Non-Governmental organizations which demonstrate a balance of perspective relating to environment and development, who shall be appointed by the Minister from among

persons nominated by such organizations, at the request of the Minister;

(d) four persons who are citizens noted for their special knowledge of or interest in environmental matters, who shall be appointed by the Minister, and

(e) the Director who shall be ex-officio member of the Authority and its secretary but without a right to vote.

(2) Subject to section 8, a member of the Authority referred to in section 6(1)(c) and (d) above, shall hold office for a period of three years and shall be eligible for re-appointment on such terms and conditions as the Minister may determine.

Chairman of the Authority

7. There shall be a Chairman of the Authority who shall be appointed by the Minister and shall:-

(a) hold office for a period of 3 years upon such terms and conditions as the Minister may determine;

(b) chair all meetings of the Authority and may himself or in consultation with the Director, the secretary of the Authority convene all its meetings at any reasonable time; and

(c) work closely with the Director to ensure the smooth operation of the Authority.

Vacation of office by Authority Members

8. A member of the Authority shall vacate his office if he:-

(a) becomes insolvent under any law relating to the insolvency of persons in Swaziland.

(b) becomes of unsound mind or is in any other way physically incapacitated;

(c) gives in writing three months notice of his resignation;

(d) is absent from three consecutive Authority meetings without leave of the Chairman;

(e) is convicted of an offence and sentenced to a term of imprisonment of six months or more; or

(f) being a member of the Authority who is a public officer he ceases to be a public officer or is for any reason suspended from his office in the public service for a period of three or more months or it transferred from the position which qualified him for appointment.

(2) In the event the office of a member becomes vacant

under subsection (1) a replacement shall be appointed under section 6.

Meetings of the Authority

9. (1) The Authority shall ordinarily meet for the dispatch of business at such time and place as the Authority may decide but shall meet at least once every three months.

(2) The Chairman of the Authority shall in addition to his powers under section 7(c) and (d), at the written request of any three members of the Authority, within fourteen days of the receipt of the request, convene and preside over a meeting of the Authority.

(3) In the absence of the Chairman, but subject to the quorum, the members present may elect one of them to act as Chairman.

(4) The quorum for a meeting of the Authority shall be eight members who shall include three members who are public officers and three who are not.

(5) All decisions of the Authority shall be made by a majority of the votes of the members present and in the event of an equality of votes, the Chairman, or in his absence the acting Chairman, shall have a casting vote in addition to his deliberative vote.

(6) The Authority may co-opt any person to attend any meeting of the Authority but without a right to vote.

(7) The validity of any act or proceedings of the Authority shall not be affected by any vacancy or absence among its members or any defect in the appointment of a member thereof.

(8) Subject to this Act the Authority may regulate its own procedure.

Committees of the Authority

10. The Authority may:-

(a) appoint such committees consisting of such persons as it may determine, and upon such terms as it thinks fit, to advise it on the exercise of any of its functions and powers;

(b) seek advice from any person or consult any public body, in the discharge of its functions and any such person or public body shall give such advice or render such assistance as the Authority may reasonably require.

Director of the Authority

11. (1) There shall be a Director of the Authority who shall be a public officer appointed under the Civil Service Order, No. 16 of 1973.

(2) The Director shall:-

(a) have such qualifications and experience as may be necessary for the proper execution of his functions under this Act;

(b) ensure that the day to day operations of the Authority are carried out;

(c) be responsible for the implementation of the decision of the Authority;

(d) assist the Chairman as necessary and with his approval help organize meetings of the Authority;

(e) co-ordinate the activities of the committees appointed under section 10;

(f) prepare and present such reports as the Authority may require;

(g) prepare and issue the annual report of the Authority, and any other publications as the Authority may require;

(h) promote co-operative arrangements between the Authority and national, and international organizations;

(i) promote public awareness on environmental matters;

(j) perform such other functions as may be assigned to him.

(3) The Director shall be assisted in the discharge of his functions under this Act by:-

(a) such other public officers as may be necessary for the proper carrying out of his functions;

(b) such experts or consultants as may be necessary for the carrying out of any of the Authority's functions.

Immunity from Civil Liabilities

12. A member of staff of the Authority or any person authorized by the Authority to carry out any functions under this Act shall not be sued in law for anything done, or omitted to be done, in the bona fide discharge of his duties under this Act.

Research and records

13. The Authority shall, with a view to facilitating present or future research or planning, maintain and preserve such records relating to its functions and activities as it shall consider proper, and shall have the power to engage in research in respect of any matter relating to these functions and to publish any part and the results of any research in which it may engage.

Annual reports

14. The Authority shall annually prepare and submit to the Government a report on the activities of the Authority during the preceding year.

Remuneration

15. (1) There shall be payable to a member of the Authority, or a member of a Committee of the Authority, such remuneration, fees and allowances as the Minister, may determine by note in the Gazette.

(2) Any remuneration, fees or allowance which may become payable under this section shall be paid out of the Consolidated Fund of the Government.

Offences.

16. (1) Any person who:

- (a) contravenes any standards or guidelines set by the Authority under section 5(1)(a);
- (b) fails, without any reasonable excuse, the proof of which shall be on him, to provide any information requested from him or refuses or neglects to attend in obedience to a request or summons issued under section 5(4)(a)(1);
- (c) knowingly provides false information in response to a request for information or summons under section 5(4)(a)(i); or
- (c) obstructs the Authority or any member of its staff, body or person authorized by the Authority, in the inspection of any premises under section 5(4)(a)(ii) or from performing any function or exercising any power under this Act;

shall be guilty of an offence and liable on conviction to a fine not exceeding E50,000 or to a term of imprisonment not exceeding 10 years or to both,.

(2) Where any offence under this section is committed by a body of persons:-

- (a) in the case of a body corporate other than a partnership, a member of the Board of Directors, that body or a person acting as such shall also be deemed to be guilty of that offence; and
- (b) in the case of a partnership, every partner shall be deemed to be guilty of that offence.

Provided that no such member or partner shall be deemed to be guilty of the offence, if he proves that such offence was committed without his knowledge and that he exercised due diligence to prevent the commission of the offence having regard to all the circumstances.

Appeals

17. (1) Any person who is aggrieved by any notice, order or decision of the Authority taken in exercise of its powers and functions under this Act may, within 7 days of the notice, order or decision appeal in writing to the Minister whereupon the execution of the notice, order or decision shall be stayed.

(2) The Minister may confirm, vary or rescind the notice, order or decision, as the case may be, or make any order which the Authority is competent to make.

Regulations

18. (1) The Minister may after consultation with the Authority make regulations for:-

- (a) the setting of standards and the provision of guidelines for the control of environmental pollution and the imposition of penalties for their infringement;
- (b) the procedures for the introduction of Environmental Impact Assessments on development projects;
- (c) measures required to facilitate the most appropriate enforcement procedures for the respect of the legal provisions tending to protect the environment. These may include, but are not limited to, requirements to restore or replace degraded areas where practicable, to mitigate damage to the environment or human health, and to reimburse the Government for costs incurred in responding to problems caused by the offending acts;
- (d) prescribing the forms for requests and summons that may be required under this Act;
- (e) promoting environmental awareness, education, research and training;
- (f) prescribing the conditions and procedures for con-

sidering the environmental impact of projects under section 5(1)(h); and

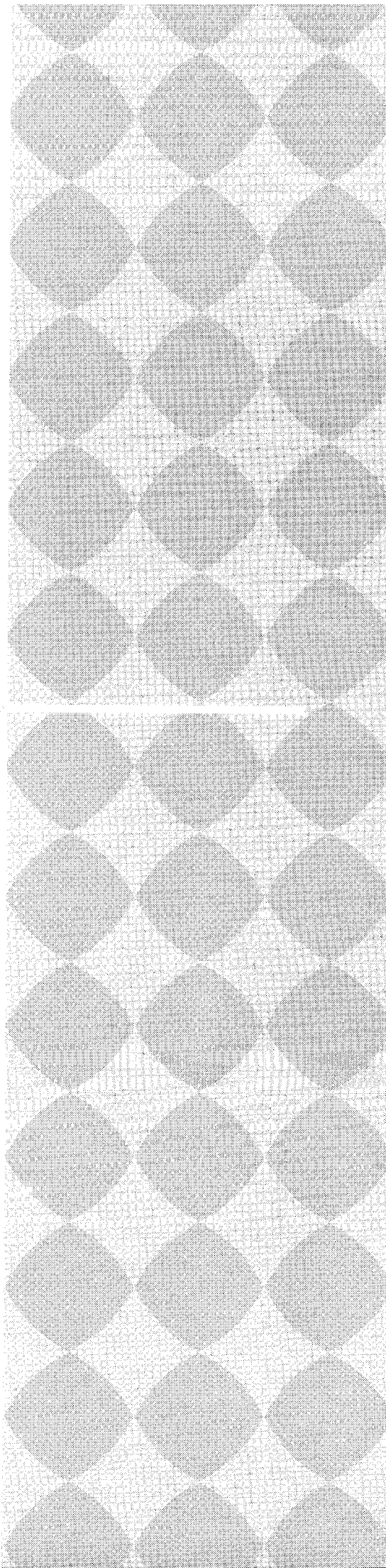
(g) generally for the better carrying out of the objects of this Act.

Supremacy of the Act

19. Where there is an inconsistency with any other law which affects the environment, this Act shall prevail.

PART TWO

Environmental Impact Assessment Regulations



MADAGASCAR

Décret portant refonte du décret n° 92-926 du 21 Octobre 1992 relatif à la mise en compatibilité des investissements avec l'Environnement

Le Premier Ministre, Chef du Gouvernement,

Vu la Constitution,

Vu la loi n° 90-033 du 21 Décembre 1990 portant Charte de l'Environnement malagasy,

Vu le décret n° 93-312 du 25 Avril 1995 portant Refonte du statut de l'Office national de l'environnement,

Vu le décret n° 94-257 du 19 Avril 1994 portant Création et rattachement de l'Office du Guichet Unique à la Primature,

Vu le décret n° 93-466 du 26 Août 1994 abrogeant les décrets n° 93-468 du 28 Août 1993, n° 93-547 du 1^{er} Octobre 1993 et n° 93-629 du 13 Octobre 1993 et portant nomination des membres du Gouvernement, modifié par le décret n° 95-027 du 11 Janvier 1995.

Vu le décret n° 95-339 du 4 Mai 1995 portant Acceptation de la démission de deux membres du Gouvernement,

Vu le décret n° 95-341 du 4 Mai 1995 chargeant M. Royal Raoelfils, Ministre de Travaux publics, de l'intérim du Ministère de l'Aménagement du territoire,

Vu le décret n° 95-342 du 4 Mai 1995 chargeant M. Gédéon Rajaonson, Ministre de la Promotion industrielle et de l'Artisan, de l'intérim du Ministère du Tourisme,

Vu le décret n° 95-612 du 28 Septembre 1994 fixant les attributions du Ministre de l'Environnement ainsi que l'organisation générale de son ministère.

Sur proposition du Ministre de l'Environnement,

En Conseil du Gouvernement,

Décète:

CHAPITRE PREMIER DISPOSITIONS GENERALES

Article premier. - Conformément à l'article 10 de la loi n° 90-033 du 21 décembre 1990 portant Charte de l'Environnement, les projets d'investissements publics ou privés susceptibles de porter atteinte à l'Environnement doivent faire l'objet d'une étude d'impact, compte tenu de la nature technique, de l'ampleur desdits projets ainsi que de la sensibilité du milieu d'implantation.

Les projets d'investissements soumis à autorisation ou à approbation d'une autorité administrative font également l'objet d'une étude d'impact dans les mêmes conditions que les susmentionnés projets.

En application de cet article, le présent décret a pour objet de fixer les règles et procédures à suivre en vue de cette mise en compatibilité des investissements avec l'Environnement et de préciser les organes habilités à la mise en oeuvre de ces règles et procédures.

Art. 2 - Sont soumises aux prescriptions du présent texte les catégories d'investissements suivants, qu'ils soient publics ou privés ou qu'ils s'agisse d'investissements soumis au droit commun ou régis par des règles particulières d'autorisation, d'approbation ou d'agrément:

1. les aménagements, ouvrages et travaux dans les zones particulièrement sensibles.

La répertoriation des zones particulièrement sensibles sera faite par les ministères sectoriellement compétents, d'office ou sur proposition de l'ONE.

Un arrêté interministériel initié par le Ministre chargé de l'Environnement portera désignation de ces zones, mais d'ores et déjà, sont considérés comme zones particulièrement sensibles pour l'application du présent article: les récifs coralliens, les mangroves; les îlots, les forêts tropicales, les zones sujettes à érosion tels les pentes de montagne ou les bassins versants, les zones

arides ou semi-arides, sujettes à désertification, les zones de conservation naturelle, les zones marécageuses, les zones abritant des espèces protégées et/ou en voie de disparition, les zones présentant un intérêt archéologique ou historique, les périmètres de protection des eaux potables, minérales ou souterraines.

2. Les aménagements, ouvrages et travaux susceptibles de par leur nature technique, l'importance de leurs dimensions et la sensibilité du milieu d'implantation d'avoir des conséquences dommageables sur l'environnement.

Les types d'investissements concernés par les présent paragraphe figurent sur la liste jointe en annexe.

Art. 3 - Conformément à sa mission définie à l'article 4 du décret n° 95-312 du 25 Avril 1995 susvisé, l'Office National de l'Environnement (ONE) est chargé d'élaborer les normes environnementales de référence et les directives techniques pour chaque type d'activité considérée. Il assure le suivi et l'évaluation de l'applicabilité des normes et procédures fixées pour la mise en compatibilité des investissements avec l'environnement.

Les normes préconisées en la matière par les organismes internationaux affiliés aux Nations Unies peuvent servir de standard de référence.

Les normes tant nationales qu'internationales ainsi que les directives en matière environnementale seront à la diligence de l'ONE et par les soins du Ministère chargé de l'Environnement, portées à la connaissance du public par voie d'arrêté publié au *Journal officiel* de la République.

En collaboration avec l'Office du guichet unique, l'ONE assurera également la diffusion de toutes informations et de toutes données utiles en matière environnementale.

CHAPITRE II

DES REGLES ET PROCEDURES APPLICABLES POUR LA MISE EN COMPATIBILITE DES INVESTISSEMENTS AVEC L'ENVIRONNEMENT

Art. 4 - Les études préalables à la réalisation des travaux et projets d'aménagements prévus à l'article 2 du présent décret doivent comporter une étude d'impact permettant d'en apprécier les conséquences.

L'étude d'impact est rendue publique et soumise à évaluation, dans les conditions prévues par les articles 9 et suivants du présent décret.

Section I

DES MODALITÉS DE L'ÉTUDE D'IMPACT

Art. 5. - L'étude d'impact est faite aux frais et sous la responsabilité du promoteur. Son contenu est en relation avec l'importance des travaux et aménagements projetés et avec leurs incidences possibles sur l'environnement, mais elle doit au moins comprendre:

1. Une description du projet d'investissement précisant ses caractéristiques spécifiques au regard de son incidence sur l'environnement;

2. Une analyse du système environnemental devant faire l'objet de l'investissement, et axée sur:

- la caractérisation des composantes (ressources naturelles et humaines);
- l'identification des mécanismes de fonctionnement et régulation (conditions et facteurs);
- l'évaluation des performances dudit système (production, dégradation).

Cette analyse doit déboucher sur un modèle schématique faisant ressortir les principaux aspects (statique ou dynamique, local ou régional), susceptibles d'être mis en cause par l'investissement projeté.

3. Une analyse prospective des effets possibles sur le système précédemment décrit, des interventions projetées:

- impacts directs sur les sites, les paysages, la faune, la flore, les milieux naturels (eaux, sols), les équilibres biologiques, les nuisances humaines (bruits, vibrations, émissions, odeur, hygiène et salubrité publique);
- impacts indirects induits traduisant une réaction des mécanismes de fonctionnement ou de régulation des systèmes en présence;
- impacts sociaux, culturels et économiques:
- présentation des différentes alternatives envisageables pour corriger les effets pervers directs ou indirects engendrés par l'investissement sur l'Environnement physique ou humain;
- justification en termes physiques et économiques des mesures compensatoires retenues dans le cadre de la dynamique propre des systèmes et de leurs probables réactions;

- définition de quelques indicateurs d'impact pertinents et facilement mesurables qui serviront à évaluer périodiquement l'incidence de l'investissement sur l'Environnement physique ou humain.

Ces différents impacts doivent être traduits en effets économiques (interne, externe). Les évaluations d'impacts utiliseront les instruments juridiques et économiques pour faciliter les prises de décision.

L'étude d'impact rédigée en malgache ou en français, doit faire ressortir en conclusion les mesures scientifiques, techniques et matérielles envisagées pour supprimer, réduire et éventuellement, compenser les conséquences dommageables de l'investissement sur l'Environnement.

Afin de faciliter la prise de connaissance par le public des informations contenues dans l'étude, celle-ci fera l'objet d'un résumé non technique rédigé en malgache et en français. Ce résumé joint à l'étude et qui en fait partie intégrante, indiquera en substance en des termes accessibles au public, l'état initial du site et de son environnement, les modifications apportées par le projet et les mesures envisagées pour pallier aux conséquences dommageables de l'investissement sur l'Environnement.

Art. 6. - L'étude d'impact est rédigée au moins en sept exemplaires originaux. Le document du projet y sera annexé si son contenu n'a pas été intégré dans l'étude.

Les exemplaires sont destinés:

- un exemplaire au ministère chargé de l'Environnement;
- un exemplaire au ministère dont relève l'activité;
- deux exemplaires à l'ONE;
- deux exemplaires au promoteur;
- un exemplaire à l'autorité locale du lieu d'implantation.

Si deux ou plusieurs départements ministériels sont concernés par le projet, ils sont chacun destinataires d'un exemplaire original de l'étude impact.

Section II **DE LA PROCÉDURE D'ÉVALUATION**

Art. 7. - Avant tout commencement des travaux, l'étude l'impact doit être soumise à évaluation. La demande est faite et instruite selon les prescriptions qui suivent:

A. De la demande d'évaluation

Art. 8. - L'évaluation est faite, sur demande écrite du promoteur adressée au Directeur Général de l'ONE. La demande à laquelle seront joints les exemplaires mentionnés à l'article précédent sera, par les soins du promoteur, déposée contre accusé de réception auprès de l'Office du guichet unique qui se chargera de la distribution des documents aux différents destinataires.

Art. 9. - La contribution de l'investisseur aux frais d'évaluation environnementale est fixée à 0,5 pour cent du montant de l'investissement inscrit ou à inscrire au bilan, hors fonds de roulement. Elle peut être comptabilisée en tant que frais d'établissement. Il en est de même pour les extensions des investissements existants.

Pour les investissements existants et nécessitant une mise en compatibilité, ce taux est applicable uniquement au coût des investissements additionnels requis.

Cette somme sera versée par l'investisseur à un compte spécial ouvert à cet effet à l'ONE et acquittée avant toute évaluation environnementale de l'investissement.

Sous peine d'irrecevabilité, la pièce comptable attestant le paiement doit être présentée par l'investisseur au moment du dépôt du dossier de demande d'évaluation. Mention en est portée par l'agent commis à la réception sur tous les exemplaires dont le dépôt est prescrit conformément aux dispositions du présent décret.

La demande est instruite conformément aux dispositions des articles 10 à 16 ci-après:

B. De l'information du public

Art. 10. - Dans les quinze jours qui suivent la date de la réception du dossier complet de la demande, l'ONE en consultation avec le Comité Technique d'évaluation prévu à l'article 19 du présent texte doit décider si pour l'information du public, il y a lieu à enquête publique de commodo et incommodo ou à une simple consultation sur place des documents.

Le promoteur est avisé de la décision prise à ce sujet par voie de notification écrite qui indiquera la date des opérations en cas d'enquête publique et l'endroit où se dérouleront les opérations en cas de consultation sur place des documents.

La notification doit avoir lieu au plus tard dans les quinze jours qui suivent la date de la décision.

En vue de cette notification et des besoins ultérieurs de

la procédure, le promoteur fera élection de domicile auprès de l'Office du guichet unique.

Art. 11. - L'enquête publique et la consultation sur place des documents ont pour objet d'informer le public et de recueillir son avis, ses suggestions et contre-propositions afin de permettre à l'ONE de disposer de tous les éléments nécessaires à son information.

1. DE L'ENQUETE PUBLIQUE

Art. 12. - Il y a lieu à enquête publique, lorsque de par sa nature inhérente et/ou son importance, l'investissement est susceptible d'affecter ou de modifier sérieusement l'Environnement.

L'ONE avise de cette enquête l'autorité locale du lieu d'implantation envisagé, laquelle informe le public de l'ouverture de l'enquête par voie d'affichage sur les lieux habituels des placards administratifs et aux abords immédiats de l'emplacement projeté.

Art. 13. - L'enquête est conduite par un ou plusieurs enquêteurs désignés, en raison de leur qualification dans la discipline considérée, par le Comité technique d'évaluation.

Le promoteur peut demander à y adjoindre un ou plusieurs experts de son choix, à titre d'observateurs.

Ne peuvent être désignés comme enquêteurs les personnes intéressées à l'opération à titre personnel ou en raison de leur fonction au sein du ministère, de la collectivité, de l'organisme ou du service qui assure la maîtrise d'ouvrage, la maîtrise d'oeuvre ou le contrôle de l'opération.

Art. 14. - L'enquête est ouverte pendant trente jours à compter de la date de l'affichage sur la base du résumé non technique de l'étude.

Pendant quinze jours, le document est tenu à la disposition de toute personne qui désire en prendre connaissance.

Tout intéressé peut, dans ce délai, demander à l'autorité locale du lieu d'implantation, l'accès à l'intégralité du document d'étude d'impact.

Toutefois, lorsque les ouvrages sont entrepris pour le compte des services de la défense nationale, la demande est adressée au Ministre chargé de la Défense dans les sept jours qui suivent l'ouverture de l'enquête, sous peine d'irrecevabilité.

Le Ministre chargé de la Défense apprécie la mesure dans laquelle il peut être fait droit à la demande, totalement ou partiellement, compte-tenu des secrets de la défense nationale. Il doit donner sa réponse dans les huit jours

de la réception de la demande.

La réponse dont ampliation est donnée à l'autorité locale du lieu d'implantation indiquera les documents qui peuvent être communiqués au public. Faute par lui de le faire dans ce délai, tout le document de l'étude d'impact est communicable au demandeur.

Un délai de sept jours est imparti à l'intéressé, à compter soit de la réception de la réponse, soit à défaut de réponse à l'expiration du délai de huit jours ci-dessus prévu, pour prendre connaissance de l'étude et formuler ses observations.

La durée de l'enquête est dans ce cas prolongée pour une durée maximale de soixante jours.

Art. 15. - Dans les cinq jours qui suivent l'expiration des délais ci-dessus et au vu des éléments du dossier, notamment des appréciations, observations, suggestions et contre-propositions formulées, le ou les enquêteurs peuvent demander au promoteur des explications complémentaires ou de produire tout document utile.

Ils peuvent, entendre toute personne dont ils jugent l'audition utile et se tiennent à la disposition de toute personne ou association qui demande à être entendue.

Ils peuvent recevoir en audience publique les déclarations de toute personne intéressée et les explications du promoteur ou de son représentant.

A l'issue du délai de cinq jours pendant lequel toutes les investigations supplémentaires doivent être effectuées, l'enquête doit être clôturée. L'autorité locale du lieu d'implantation dispose, après la clôture, d'un délai de cinq jours pour examiner le dossier et formuler son avis personnel.

Dans les dix jours qui suivent la clôture de l'enquête, le rapport du ou des enquêteurs doit être rédigé. Ce rapport qui sera rendu public conformément aux prescriptions des deux derniers alinéas du présent article; relate le déroulement des opérations et fera état des observations, suggestions et contre-propositions formulées.

Les conclusions motivées du ou des enquêteurs qui indiquent si elles sont favorables ou non à l'opération, seront consignées dans un document à part.

Le rapport et le document consignants les conclusions du ou des enquêteurs doivent être transmis à l'ONE dans un délai de quinze jours à compter de la date de la clôture de l'enquête.

Copie du rapport et des conclusions est adressée par l'ONE à l'autorité locale du lieu d'implantation pour être tenue à la disposition du public.

Toute personne intéressée pourra par ailleurs obtenir auprès de l'ONE communication du rapport et des conclusions du ou des enquêteurs.

2. DE LA CONSULTATION SUR PLACE DES DOCUMENTS

Art. 16. - Lorsque le projet consiste en de petites opérations dont l'importance ne justifie pas l'organisation d'une enquête publique, la consultation du public est limitée à la communication sur place du résumé non technique de l'étude.

L'ONE avise de cette consultation l'autorité locale du lieu d'implantation qui en informera le public par tout moyen de publicité approprié.

Le document est mis à la disposition du public pendant un délai de dix jours ouvrables à l'endroit indiqué dans l'avis, sous la surveillance d'un agent désigné à cet effet par l'autorité locale du lieu d'implantation. Le document entier de l'étude d'impact peut être communiqué à tout intéressé, sur sa demande.

Rapport du déroulement des opérations est dressé dans les cinq jours de la clôture des opérations par l'agent commis à la surveillance qui y consigne les dires, observations et suggestions recueillis.

Dans les cinq jours qui suivent l'expiration de ce délai, l'autorité locale transmet à l'ONE, le rapport complété par son avis personnel.

Si des observations écrites ou orales ont été consignées, l'ONE convoque le promoteur ou son représentant et lui communique sur place lesdites observations en l'invitant à produire dans un délai maximum de sept jours son mémoire en réponse.

Copies du rapport et des réponses du promoteur sont adressées par l'ONE à l'autorité locale du lieu d'implantation pour être tenues à la disposition du public, sans préjudice du droit pour tout intéressé de demander auprès de l'ONE communication du rapport et de tout document y afférent.

Section III DE L'ÉVALUATION ENVIRONNEMENTALE

Art. 17. - L'évaluation environnementale consiste à vérifier si dans son étude, le promoteur a fait une exacte application des connaissances scientifiques compte tenu des directives et des normes de références applicables pour le type d'investissement considéré et si les mesures proposées pour prévenir et/ou corriger les effets néfastes prévisibles de l'investissement sur l'environnement sont suffisantes et appropriées.

L'évaluation environnementale doit également prendre en compte toutes les autres dimensions de l'Environnement telles qu'elles ressortent de l'enquête et de la consultation du public.

A. De organes d'évaluation environnementale

Art. 18. - L'évaluation environnementale incombe à l'ONE qui y procède en liaison avec les structures chargées au sein des ministères de l'intégration des dimensions environnementales dans la politique économique et sectorielle du département ou en consultation avec le Comité technique d'évaluation institué en vertu de l'article 19 ci-après.

Art. 19. - Un Comité technique d'évaluation composé de représentants de l'Etat et de représentants des opérateurs privés est créé en vertu du présent décret.

Le nombre des membres devant le composer et les règles de fonctionnement du Comité seront fixés par arrêté du Ministre chargé de l'Environnement.

Il est saisi par l'ONE de toute étude que celui-ci estime devoir soumettre à son appréciation, compte tenu de l'importance de l'investissement et de la complexité du problème.

L'avis du Comité est toutefois obligatoirement requis pour l'évaluation des études relatives à des investissements intéressant plusieurs départements.

La Présidence du Comité est assurée par le Ministre chargé de l'Environnement ou son représentant.

Les représentants de l'Etat au sein du Comité sont désignés par leurs Ministres respectifs parmi les personnes faisant partie des structures chargées au niveau de chaque ministère de l'intégration des dimensions environnementales dans la politique économique et sectorielle du département. Les représentants des opérateurs privés le seront par les associations et les groupements professionnels les plus représentatifs.

Un arrêté du Ministre chargé de l'Environnement constatera ces désignations.

Les départements ministériels, maître d'ouvrage, et les opérateurs impliqués à titre personnel, ou de par leurs fonctions par l'opération ne peuvent participer à la délibération du Comité pour l'examen des dossiers qui les concernent. Ils peuvent toutefois être entendus en leurs explications et donner leur point de vue technique sur le dossier.

B. Des actes et mesures en matière environnementale

Art. 20. - Si les informations contenues dans le dossier

ne lui paraissent pas suffisantes, le Comité peut ordonner toutes mesures d'informations complémentaires qu'il estime nécessaires.

Ces investigations complémentaires doivent être données dans le délai imparti à l'ONE pour donner son avis.

Art. 21. - L'avis de l'ONE doit être donné dans le délai de trente jours en cas de consultation sur place des documents et de soixante jours en cas d'enquête publique.

Ce délai court à compter de la date de réception du rapport.

Faute par l'ONE de statuer dans les délais ci-dessus impartis, il sera passé outre à son avis.

Le promoteur qui est dans ce cas habilité à poursuivre les opérations projetées, n'est pas cependant dispensé du respect des prescriptions environnementales applicables au type d'investissement considéré.

Sa responsabilité demeure engagée dans les termes du droit commun pour tout dommage causé à l'Environnement et découlant de l'investissement entrepris.

Art. 22. - L'étude d'impact dûment évaluée est insérée dans tout document de demande d'autorisation, d'approbation ou d'agrément des travaux, ouvrages et aménagements projetés.

Au cas où l'enquête publique est déjà prévue par la législation et la réglementation particulières à l'activité considérée, l'évaluation est faite par les organes compétents dans le cadre de ces procédures particulières.

En vue de cette évaluation, l'étude d'impact est comprise dans les dossiers soumis à enquête publique. L'ONE sera destinataire de tout rapport établi et sera tenu informé de toute décision prise à ce sujet.

Art. 23. - Si par suite d'un bouleversement de l'équilibre environnemental, les mesures initialement prises se révèlent inadaptées, l'investisseur est tenu de prendre les mesures d'ajustement nécessaires en vue de la mise en compatibilité permanente de ses investissements avec les nouvelles directives et normes environnementales applicables en la matière.

La décision sera prise par l'autorité matériellement ou sectoriellement compétente, sur proposition de l'ONE et en consultation avec le Ministre chargé de l'Environnement. La décision précisera les nouvelles mesures correctrices et/ou compensatoires retenues ainsi que le délai d'exécution qui ne peut dépasser trois ans.

Art. 24. - En cas de cession, le cessionnaire se trouve subrogé dans les droits, avantages et obligations du cédant.

Si des modifications sont apportées par le cessionnaire au projet initial, une nouvelle étude d'impact obéissant aux règles et procédures prévues par le présent texte est requise si les modificatifs, additifs ou rectificatifs impliquent une modification des mesures prises en matière de protection de l'Environnement.

CHAPITRE III DU SUIVI, DE L'ÉVALUATION ET DU CONTROLE

Art. 25. - Le suivi et l'évaluation de l'applicabilité des normes et procédures en matière de mise en compatibilité des investissements avec l'Environnement incombent à l'ONE.

Si des manquements dans l'application effective des mesures prescrites viendraient à être portés à sa connaissance, l'ONE en informe les autorités administratives compétentes, dûment habilitées à effectuer le contrôle et à faire procéder au constat des manquements.

Art. 26. - Les autorités locales du lieu d'implantation et l'ONE sont associées aux différentes opérations de vérification et contrôle effectuées par les organes compétents.

Si la vérification exige des connaissances scientifiques et techniques particulières, les autorités administratives intéressées peuvent demander à l'ONE tous les éléments d'appui, opérationnels et techniques nécessaires.

La constatation des manquements est faite selon les règles particulières régissant l'activité considérée.

L'ONE est destinataire de tout procès-verbal établi à cet effet et est tenu informé de toutes les mesures prises par l'autorité compétente au sujet du manquement constaté.

Art. 27. - Constituent des manquements aux termes du présent décret:

- le fait pour tout investisseur d'avoir entrepris des travaux, ouvrages et aménagements rentrant dans les catégories prévues à l'article 2 ci-dessus, sans qu'une étude d'impact ait été faite et soumise à publicité et évaluation dans les conditions prévues par le présent décret;
- le fait pour tout investisseur de s'être abstenu de faire

les mesures correctrices et/ou compensatoires prescrites pour pallier un manquement constaté;

- l'inexécution totale ou partielle dans le délai prescrit des mesures de mise en conformité de l'investissement avec l'Environnement.

Art. 28. - Indépendamment des sanctions administratives qui peuvent être prononcées par l'autorité légalement compétente, toute infraction aux dispositions de la législation et de la réglementation environnementales en vigueur est constatée et poursuivie selon les règles particulières à l'activité considérée ou à défaut, selon de droit commun.

Art. 29. - Devant les juridictions, la représentation de l'Etat en justice, tant en demandant qu'en défendant, est réglée selon les textes en vigueur.

CHAPITRE IV DISPOSITIONS TRANSITOIRES

Art. 30. - Tous les investissements en cours au jour de la publication du présent décret et rentrant dans les catégories visées à l'article 2 du présent décret, doivent s'ajuster aux directives et normes de gestion rationnelle de l'Environnement dans les conditions prévues par le présent chapitre.

Art. 31. - Sont considérés comme investissement en cours, les investissements pour lesquels le dossier complet de demande d'autorisation, d'approbation ou d'agrément est déjà déposé selon les prescriptions légales ou réglementaires en vigueur ainsi que les investissements en cours d'exécution ou d'exploitation.

Art. 32. - Dans les six mois qui suivent la publication du présent décret s'il s'agit d'investissement en cours d'exécution ou d'exploitation et dans les quinze jours en cas de projets pour lesquels une demande d'autorisation, d'approbation ou d'agrément est déjà déposée conformément à la législation et à la réglementation en vigueur avant la publication du présent texte, toute personne, dont les activités se trouvent visées à l'article 2 ci-dessus est tenue d'en faire la déclaration à l'ONE et de faire connaître, compte-tenu des directives et normes environnementales applicables pour le type d'investissement considéré, les mesures déjà prises, en cours ou envisagées pour la protection de l'Environnement.

La déclaration accompagnée de tout document utile, doit faire ressortir les moyens permettant le suivi, l'évaluation et le contrôle de l'investissement.

La déclaration qui vaut demande d'évaluation est établie et déposée selon les prescriptions des articles 6 à 8 du présent décret.

Art. 33. - L'évaluation environnementale est faite par l'ONE en consultation le cas échéant avec le Comité technique d'évaluation.

L'ONE peut demander à l'investisseur tout élément d'information complémentaire ou même prescrire une nouvelle étude environnementale sur la base des indications prévues à l'article 5 du présent décret.

Art. 34. - Après investigations, l'ONE fait part de son avis à l'autorité compétente pour statuer sur l'autorisation, l'approbation ou l'agrément.

1. En cas de projets pour lesquels une demande d'autorisation, d'approbation ou d'agrément est déjà déposée, les observations, suggestions et recommandations éventuelles de l'ONE seront prises en compte par l'autorité compétente dans l'examen du volet environnemental du projet.

L'avis de l'ONE visé par le ministre de l'Environnement doit être donné dans le délai imparti légalement ou réglementairement aux dites autorités pour rendre leur décision. Faute par l'ONE de statuer dans le délai imparti, il sera passé outre à son avis et ce, sans préjudice des dispositions des alinéas 4 et 5 de l'article 21 du présent décret.

2. En cas d'investissements en cours d'exécution ou d'exploitation, les éventuelles mesures correctrices et/ou compensatoires préconisées ainsi que le délai d'exécution seront fixées par l'autorité compétente, sur proposition de l'ONE et en consultation avec le Ministère chargé de l'Environnement.

Le délai d'exécution ne peut dépasser deux ans s'il s'agit d'un investissement en cours et trois ans s'il s'agit d'un investissement en cours d'exploitation.

Ce délai court à compter du jour de la notification de la décision à l'intéressé.

Copie de la décision est communiquée à l'ONE et à l'autorité locale du lieu d'implantation pour information.

CHAPITRE V DISPOSITIONS FINALES

Art. 35. - Des Arrêtés seront pris en cas de besoin pour définir les modalités d'application du présent décret.

Art. 36. - Le décret n° 92-926 du 21 octobre 1992 relatif à la mise en compatibilité des investissements avec l'Environnement, est et demeure abrogé.

Art. 37. - Le Ministre de l'Environnement, le Ministre d'Etat, Ministre du Développement rural et de la Réforme foncière, le Ministre des Affaires étrangères, le Garde des Sceaux, Ministre de la Justice, le Ministre des Finances et du Budget, le Ministre de l'Intérieur et de la Décentralisation, le Ministre de la Santé, le Ministre de la Fonction publique, du Travail et des Lois sociales, le Ministre de l'Economie et du Plan, le Ministre des Forces armées, le Ministre de la Police nationale, le Ministre de

l'Aménagement du territoire, le Ministre des Transports et de la Météorologie, le Ministre des Travaux publics, le Ministre de l'Education nationale, le Ministre de l'Enseignement supérieur, le Ministre de la Promotion industrielle et de l'Artisanat, le Ministre du Commerce et du Ravitaillement, le Ministre du Tourisme, le Ministre de l'Energie et de Mines, le Ministre de la Recherche appliquée au Développement, le Ministre de la Culture et de la Communication et des Loisirs, le Ministre de la Population, de la Jeunesse et des Sports, le Ministre des Postes et Télécommunications, sont chargés chacun en ce qui le concerne de l'exécution du présent décret qui sera public au *Journal officiel* de la République.

Fait à Antananarive, le 23 mai 1995

Francisque RAVONY

Par le Premier Ministre, Chef du Gouvernement

Le Ministre de l'Environnement, Georges Aldine RABELAZA

Le Ministre d'Etat, Ministre du Développement Rural et de la Réforme Foncière, Emmanuel RAKOTOVAHNY

Le Ministre des Affaires Etrangères, Jacques SYLLA

Le Garde des Sceaux, Ministre de la Justice, Ramanoelison RABENDRAINY

Le Ministre des Finances et du Budget, Francisque RAVONY

Le Ministre de l'Intérieur et de la Décentralisation, Clément Séverin Charles

Le Ministre de la Santé, Damasy Seth ANDRIAMBAO

Le Ministre de la Fonction publique, du Travail et des Lois sociales, Henri RAKOTOVOLOLONA

Le Ministre de l'Economie et du Plan, par intérim, Ny Hasina ANDRIAMANJATO

Le Ministre des Forces armées, Général Charles RABENJA

Le Ministre de la Police nationale, Berthin RAZAFINDRAZAKA

Le Ministre de l'Aménagement du territoire, par intérim, Royal RAOELFILS

Le Ministre des Transports et de la Météorologie, Daniel RAMAROMISA

Le Ministre des Travaux publics, Royal RAOELFILS

Le Ministre de l'Education nationale, Fulgence FANONY

le Ministre de l'Enseignement supérieur, Adolphe RAKOTOMANGA

Le Ministre de la Promotion industrielle et de l'Artisanat, par intérim, Bruno BETIANA

Le Ministre du Commerce et du Ravitaillement, Jérôme SAMBALIS

Le Ministre du Tourisme, par intérim, Gédéon RAJAONSON

Le Ministre de l'Energie et de Mines, Bruno BETIANA

Le Ministre de la Recherche appliquée au Développement, Roger ANDRIANASOLO

Le Ministre de la Culture, de la Communication et des Loisirs, Thilavina RALAINDIMBY

Le Ministre de la Population, de la Jeunesse et des Sports, Thérèse RAVAO

Le Ministre des Postes et Télécommunications, Ny Hasina ANDRIAMANJATO

ANNEXE I

**LISTE DES INVESTISSEMENTS SOUMIS A
L'ETUDE D'IMPACT ENVIRONNEMENTALE**

1. Industries extractives et minières (recherche et exploitation, transformation, cimenteries).
2. Industries pétrolières et ses dérivées (exploration, prospection, recherche, exploitation et transformation).
3. Industries pharmaceutiques et chimiques (fertilisants, pesticides...)
4. Industries sidérurgiques et métallurgiques...
5. Industries manufacturières (tabac, torréfaction...)
6. Industries d'armement (munitions, explosifs...).
7. Industries agro-alimentaires (abattoirs, entrepôts frigorifiques, conditionnement, transport.).
8. Industries utilisant l'eau (cuir, pâte à papier, textiles...).
9. Industries du bois et ses dérivées.
10. La pêche industrielle (les activités de production, d'exploitation et de traitement de produits halieutiques).
11. Tout projet de modernisation industrielle.
12. Aménagement hydraulique (barrage, centrale hydro-électrique...).
13. Tout aménagement à proximité des aires protégées.
14. Aménagement touristique et éco-touristique (industrie du tourisme et de l'hôtellerie: hébergement, restauration, transports touristiques, prestations touristiques).
15. Aménagement urbain (hôpitaux, zone industrielle, travaux de bâtiments, construction pour promotion immobilière, centres collectifs).
16. Aménagement rural (élevage industriel et artisanal, agriculture, bassins versants...).
17. Exploitation forestières et plantation industrielle (activités de production/exploitation de bois, de raphia, de plantes médicinales).
18. Centre de traitement de déchets (ménagers, industriels, boues de station d'épuration...).
19. Centrale de production d'énergie (thermique, nucléaire, éolienne, solaire...).
20. Travaux d'infrastructure (travaux routiers et ouvrages d'art, travaux de terrassement, travaux de sondage et forage pour infrastructures routières et de l'habitat, canaux, ligne ferroviaire, port, aéroport, transport d'énergie électrique...).
21. Transport de produits spéciaux (toxiques, explosifs et dangereux générateurs de pollution accidentelle que ce soit terrestre, fluviale, maritime ou aérienne).
22. Déplacement et implantation de population.

NAMIBIA

Namibia's Environmental Assessment Policy Cabinet Resolution 16.8.94/002.

PREAMBLE

THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA RECOGNIZES THAT:

1. "The State shall actively promote and maintain the welfare of the people by adopting policies aimed at

The maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future ..." [Constitution of the Republic of Namibia - Art 95 (1)].

2. There is an urgent and fundamental need for economic development, foreign investment and the alleviation of poverty [Namibia's Green Plan-chapter 11 (j)].

3. Namibia has inherited a colonial legacy of institutionalized segregation which has led to economic disenfranchisement and contributed to general environmental degradation and habitat destruction in certain areas [Namibia's Green Plan-chapter 11 (j)].

4. Namibia is dependent on natural resources and certain biophysical components are vulnerable to environmental degradation. It is specifically acknowledged that Namibia is an arid country and that the scarcity of water and the country's limited human and animal carrying capacity need to be taken into account prior to policy formulation and during all stages of planning.

5. Environmental Assessments are a key tool, amongst others, to further the implementation of a sound environmental policy which strives to achieve Integrated Environmental Management (IEM).

THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA further DECLARES the following as relevant to its ENVIRONMENTAL ASSESSMENT POLICY:

1. The principle of achieving and maintaining sustainable development must underpin all policies, programmes and projects undertaken within Namibia. In particular,

the wise utilization of the country's natural resources, together with the responsible management of the biophysical environment, must be for the benefit of both present and future generations.

2. Namibia shall place a high priority on:

(i) maintaining ecosystems and related ecological processes, in particular those important for water supply, food production, health, tourism and sustainable development;

(ii) observing the principle of optimum sustainable yield in the exploitation of living natural resources and ecosystems, and the wise utilization of non-renewable resources;

(iii) maintaining representative examples of natural habitats;

(iv) maintaining maximum biological diversity by ensuring the survival and promoting the conservation in their natural habitat of all species of fauna and flora, in particular those which are endemic, threatened, endangered, and of high economic, cultural, educational, scientific and conservation interest.

3. Namibia shall pursue an active administrative and legislative programme to achieve Integrated Environmental Management through, *inter alia*, the execution of ENVIRONMENTAL ASSESSMENTS in accordance with the ENVIRONMENTAL ASSESSMENT policy which follows:

NAMIBIA'S ENVIRONMENTAL ASSESSMENT POLICY

The Government of Namibia :

RECOGNIZING that Environmental Assessments (EA's) seek to ensure that the environmental consequences of development projects and policies are considered, understood and incorporated into the planning process, and that the term ENVIRONMENT (in the context of IEM and EA's) is broadly interpreted to include

biophysical, social, economic, cultural, historical and political components;

DECLARES the following ENVIRONMENTAL ASSESSMENT policy for Namibia:

1. All listed policies, programmes and projects, whether initiated by the government or the private sector, should be subjected to the established EA procedure as set out in Appendix A. A list of policies, programmes and projects requiring an EA is set out in Appendix B.

2. The EA procedure will, as far as is practicable, set out to:

- (i) better inform decision makers and promote accountability for decisions taken,
 - (ii) consider a broad range of options and alternatives when addressing specific policies, programmes and projects,
 - (iii) strive for a high degree of public participation and involvement by all sectors of the Namibia community in the EA process,
 - (iv) take into account the environmental costs and benefits of proposed policies, programmes and projects,
 - (v) incorporate internationally accepted norms and standards where appropriate to Namibia,
 - (vi) take into account the secondary and cumulative environmental impacts of policies, programmes and projects,
 - (vii) ensure that the EA procedure is paid for by the proponent. In certain cases, such as programmes initiated by the State, it is recognized that the Government is the proponent and will meet the costs of an independent EA,
 - (viii) promote sustainable development in Namibia, and especially ensure that a reasonable attempt is made to minimize anticipated negative impacts and maximize the benefits of all developments,
 - (ix) be flexible and dynamic, thereby adapting as new issues, information and techniques become available.
3. This policy recognizes the inherent need to incorporate adequate provisions to achieve "reduction-at-source" in the areas of pollution control and waste management.

4. The costs of EA shall be borne by the proponent who is also responsible for ensuring that the quality of the EA and the EA Report are of an acceptable standard.

5. The proponent (both Government and Private Enterprise) shall enter into a binding agreement based on the procedures and recommendations contained in the EA Report. This will help ensure that the mitigatory and other measures recommended in the EA, and accepted by all parties, are complied with. This agreement should address the construction, operational and decommissioning phases as applicable, as well as monitoring and auditing.

6. In terms of the ENVIRONMENTAL ASSESSMENT ACT, an Environmental Commissioner shall be appointed by the Ministry of Environment and Tourism, and housed in the office of the National Planning Commission.

6.1 The Environmental Commissioner shall be responsible for administering the EA process as described in Appendix A. This will include registration, establishing the procedural framework for the process in consultation with the proponent, screening, evaluation and review procedures as appropriate.

6.2 The Environmental Commissioner shall report to an Environmental Board which shall be constituted in terms of the Environmental Assessment Act, and shall consist of senior representatives from various Ministries and other organizations as appropriate. The Board shall be vested with powers to co-opt individuals and specialists where required. In addition to initial screening, the Board shall be responsible for reviews so as to ensure that EA's are of a consistently high standard.

7. Decisions taken by the Commissioner and/or the Board shall be subjected to appeals according to the normal legal principles and appeal procedures in Namibia.

8. A record of all decisions by the Board shall be kept. Such records, as well as EA reports, shall be registered, accessible and available for public enquiry. The proponent will however, have the right to request confidentiality on specific information as appropriate.

9. The EA procedure will, at the cost of the proponent, include the ongoing monitoring of policies, programmes and projects after they have been implemented, to ensure that they conform with the recommendations in the EA report as well as the agreement between the proponent and the Environmental Board.

APPENDIX A CONTINUED...

ENVIRONMENTAL ASSESSMENT PROCEDURE

1. SUBMISSION OF POLICY, PROGRAMME OR PROJECT

This is the start of the process, when the proponent (be it government or private enterprise), submits a proposal to the Environmental Commissioner, located in the National Planning Commission.

2. REGISTRATION

The Environmental Commissioner officially registers the policy, programme or project proposal, and ensures that the proponent fully understands the EA procedure which needs to be followed. The Commissioner supplies the proponent with the necessary documentation, general guidance, contacts, and any other support which will facilitate a smooth EA process.

3. DEVELOP PROPOSAL

Because Environmental Assessments are designed to, *inter alia*, (a) facilitate integrated and improved planning during all stages and (b) ensure that the decision making process is informed and streamlined, the following steps are required at the earliest stage:

- notify neighbours and other interested and affected parties,
- establish policy, legal and administrative requirements and procedural framework,
- establish the need for the development, and evaluate this against local, national and international needs on various time scales,
- notify and consult with interested and affected ministries,
- identify and consider alternatives,
- identify and consider issues, opportunities and constraints of alternatives,
- consider mitigatory options,
- consider management plan options,
- consider fatal flaw & risk analyses, and worst case scenarios,
- consider secondary and cumulative effects within the region.

The above activities are the responsibility of the propo-

nent, but are planned jointly by the proponent, the Commissioner and the Board, who engage in a consultative process at this early stage. Through these initial discussions, alternatives, affected parties, potential impacts and benefits, issues, mitigatory and optimization possibilities, etc., can be identified. Furthermore, a specific framework which clearly spells out roles, responsibilities and procedures should be established.

4. CLASSIFICATION OF PROPOSAL

In consultation with the proponent and his/her consultants, the Board decides on whether this policy, programme or project requires an EA or not. The list of Activities in *APPENDIX B* should be used to guide this decision. If it is felt that the policy, programme or project is not likely to result in significant impacts and/or that sufficient plans to maximize benefits have already been included, there will be no need for a formal assessment. Alternatively, the Commissioner and/or Board may decide that an EA is required, and they will then discuss the Terms of Reference for the study with the proponent. During this stage, provision is made for individuals and organizations to voice their objections or reservations to the proposal.

For large projects, a pre-feasibility study is usually undertaken. Based on the findings of this, a more detailed feasibility study may be conducted. The Terms of Reference for the detailed feasibility study should be established during the pre-feasibility study.

5. ENVIRONMENTAL ASSESSMENT

It should become clear during the **registration** or **classification of proposal** stages whether there will be significant impacts and if an EA is necessary or not. There are three main components to an EA.

(i) Scoping

This determines the extent of and approach to the investigation, and should endorse the Terms of Reference established earlier. The proponent (and his/her consultant), in consultation with the Environmental Commissioner, relevant authorities, interested and affected parties, determine which alternatives and issues should be investigated, the procedural framework that should be followed, and report requirements. It is the responsibility of the proponent to ensure that all the above are given adequate opportunity to participate in this process.

The Scoping process should indicate the following:

- the authorities and public that are likely to be concerned and affected,
- methods to be used in informing and involving concerned and affected parties,

- opportunities for public input,
- specific reference to disadvantaged communities regarding the above,
- the use of advisory groups and specialists,
- the composition of the EA team and their Terms of Reference,
- the degree of confidentiality required.

If the proposal is likely to affect people, the proponent should consider the following guidelines in Scoping:

- the location of the development in relation to interested and affected parties, communities or individuals,
- the number of people likely to be involved,
- the reliance of such people on the resources likely to be affected,
- the resources, time and expertise available for scoping,
- the level of education and literacy of parties to be consulted,
- the socio-economic status of affected communities,
- the level of organization of affected communities,
- the degree of homogeneity of the public involved,
- history of any previous conflict or lack of consultation,
- social, cultural or traditional norms within the community,
- the preferred language used within the community.

(ii) Investigation

The Investigation includes literature research and field work, and is guided by the scoping decisions. It is intended to provide the Board with enough information on the positive and negative aspects of the proposal, and feasible alternatives, with which to make a decision.

(iii) Report

The Report should consist of the following:

- Executive summary

- Contents page
- Introduction
- Terms of Reference
- Approach to study
- Assumptions and limitations
- Administrative, legal and policy requirements
- Project proposal
- The affected environment
- Assessment
- Evaluation
- Incomplete or unavailable information
- Conclusions and recommendations
- Definitions of technical terms
- List of compilers
- Acknowledgements
- References
- Personal communications
- Appendices

It should also include:

- Management plan
- Monitoring programme
- Environmental Agreement
- Audit proposal

6. NO FORMAL ASSESSMENT

If a policy, programme or project is unlikely to result in significant impacts, and plans for maximizing benefits are adequate, then the proposal can proceed without an EA. In the unlikely event of strong opposition to the development at this late stage, the Commissioner could solicit further opinions from specific ministries, specialists, interested and affected parties and the general public. Based on the response, the proposal is either sent

back for more information (especially if there is serious uncertainty or significant information gaps), or approval to proceed is confirmed.

7. REVIEW

Once completed, an Environmental Assessment report is submitted to the Environmental Commissioner for review. The Commissioner will review the document with the assistance of local and/or outside experts, sector Ministries, and any other organizations/individuals as considered necessary. The cost of external review shall be borne by the proponent. The recommendations of the Commissioners shall be presented to the Environmental Board which will make a decision or recommendation as appropriate. Such decision shall be recorded and made known to the proponent.

8. CONDITIONS OF APPROVAL

Once a policy, programme or project has been approved, the Board, in consultation with the proponent, may set a number of conditions. Such conditions may provide for the establishment of a management plan, which specifies tasks to be undertaken in the construction, operational and decommissioning phases of the development. By mutual agreement, a monitoring strategy and audit procedure will be determined at this early stage so that the proponent can make the necessary budgetary provisions well in advance. Provision is also made for an Environmental Agreement, whereby penalties for not adhering to the Conditions of Approval are agreed upon.

9. RECORD OF DECISION

Whether or not a proposal is approved, there should be a record of decision, which should include reasons for the decision. This Record of Decision should be made available by the Commissioner to any interested party, including the public. Any Conditions of Approval must be reflected in the Record of Decision.

10. APPEAL

The decision-making process provides an opportunity for appeal through the Commissioner and/or the Board. Besides appealing to the decision-making authority, appellants should be allowed access to a court of law if malpractice is suspected.

11. IMPLEMENTATION OF PROPOSAL

Once approved, the policy, programme or project may be implemented in accordance with the Environmental Agreement.

12. MONITORING

An appropriate monitoring programme should be required for all approved proposals. Aspects to be covered in Monitoring include verification of impact predications, evaluation of mitigatory measures, adherence to approved plans, and general compliance with the Environmental Agreement. The responsibility for ensuring that appropriate monitoring takes place lies with the Commissioner, while the proponent shall be responsible for meeting the costs.

13. AUDITS

Periodic assessments of the positive and negative impacts of proposals should be undertaken. These will serve to provide instructive feedback on the adequacy of planning during the **Develop Proposal** stage, the accuracy of investigations in the **Environmental Assessment** stage, the wisdom of the decisions taken during the **Review** stage, and the effectiveness of the **Conditions of Approval** and **Monitoring Programme** during the **Implementation** stage. An audit is thus an *independent* re-assessment of the policy, programme or project after a given period of time.

APPENDIX B — LIST OF ACTIVITIES

NB: The following list shall act as a guide for the Environmental Commissioner and Board.

Where the scale of activities indicate their relative importance and consequent inclusion in this list, but where specific quantification is not provided, it is up to the Commissioner and/or the Board to use their discretion.

POLICIES, PROGRAMMES and PROJECTS requiring an ENVIRONMENTAL ASSESSMENT

1. Structure plans (eg. Land-use plans and policies).
2. Rezoning applications.
3. Land acquisition for national parks, nature reserves, marine reserves, protected natural environments or wilderness areas.
4. Establishment of settlements.
5. Declaration of limited development areas.
6. Any government policy, programme or project on the use of natural resources.
7. Pest control programmes.

-
- | | |
|--|--|
| <p>8. Human population growth/management programmes.</p> <p>9. Nuclear installations.</p> <p>10. Transportation of hazardous substances & radioactive waste.</p> <p>11. Mining, mineral extraction & mineral beneficiation.</p> <p>12. Power generation facilities with an output of 1 megawatt or more.</p> <p>13. Electrical substations and transmission lines having equipment with an operating voltage in excess of 30,000 volts rms phase-to-phase.</p> <p>14. Storage facilities for chemical products.</p> <p>15. Industrial installation for bulk storage of fuels.</p> <p>16. Bulk distribution facilities.</p> <p>17. Manufacture of explosives.</p> <p>18. Introduction and/or propagation of invasive alien plant and animal species.</p> <p>19. Afforestation projects.</p> <p>20. Genetic modification of organisms & releases of such organisms.</p> <p>21. Major roads.</p> <p>22. Railways.</p> <p>23. Commercial aerodromes.</p> <p>24. Ports and harbours.</p> <p>25. Major pipelines.</p> <p>26. Cableways and cableway stations.</p> <p>27. Television and radio transmission masts.</p> <p>28. Major canals, aqueducts, river diversions and water transfers.</p> <p>29. Permanent flood control schemes.</p> <p>30. Major dams, reservoirs, levees and weirs.</p> | <p>31. Establishment of armaments testing areas.</p> <p>32. Reclamation of land from sea.</p> <p>33. Major agricultural activities (e.g. livestock and cultivation projects in previously undeveloped/unused areas).</p> <p>34. Small scale (formal) water supply schemes.</p> <p>35. Human resettlement.</p> <p>36. Water intensive industries.</p> <p>37. Deforestation projects.</p> <p>38. Desalination plants.</p> <p>39. Effluent plants.</p> <p>40. Salt works.</p> <p>41. Marine petroleum exploration.</p> <p>42. Major groundwater abstraction schemes.</p> <p>43. Aquaculture and mariculture.</p> <p>44. Oil exploration.</p> <p>45. Multinational projects.</p> <p>46. Chemical production industries.</p> <p>47. Veterinary fencing.</p> <p>48. Tanneries.</p> <p>49. Military exercises in sensitive areas.</p> <p>50. Waste disposal sites.</p> <p>51. Alternate energy programmes.</p> <p>52. Commercial tourism and recreation facilities (e.g. rest camps).</p> <p>53. Significant use of pesticides, herbicides & defoliants.</p> <p>54. Drought relief schemes.</p> |
|--|--|
-

APPENDIX ONE

Index to Framework Laws of
African Countries

HOW TO USE THE FRAMEWORK LAW INDEX:

This "Index of provisions of framework laws of African countries" is organized by subject; as a result of various inputs from consultations held in 1995 at the time the global framework law and EIA indexes were to be developed at the UNEP's Environmental Law Centre.(ELI/PAC).

An easy way to find a subject of particular interest to anyone is to look at the list of index titles following this section. Then, look at the full index of framework laws of African countries.

Under each title of the Index appears the names of the countries, classified in alphabetical order. Each country name is eventually followed by a number or numbers which represent articles or sections of their laws on specific subjects.

For example, one of the subject headings is "Water Quality Standards." The index reads:

Water quality standards:

Algeria: 38

This means that article or section 38 of the Algeria framework law deals with water quality standards, etc. This index follows the texts of the laws as put together in the Compendium of framework laws of African countries, so you can then read section 38 of the Algerian law, etc.

The Authors

I. PRELIMINARY

1. Short title; application; commencement date of law; repeal of existing laws.

Algeria: 1, 140
Burkina Faso: 1, 2, 100
Cameroon: 1, 2, 54, 98, 99
Cape Verde: 1, 17, 52
Comores: 1, 89, 90
Congo: 1, 39, 90, 91
Cote d'Ivoire: 2, 4, 5, 6
Egypt: Preamble, 1, 3, 4
Gabon: 1, 95, 96
Ghana: 30
Guinea: 1, 4, 5, 116
Libya: 2, 75
Madagascar: 1, 12, 13; Annex, Title II
Mali: 22
Mauritius: 1, 3
Senegal: 1
Seychelles: 1, 3, 34, 41
South Africa: 39, 41, 42-46
The Gambia: 1, 65
Togo: 1, 74, 103
Tunisia: 18
Uganda: 1, 109
Zambia: 1

II. DEFINITIONS/INTERPRETATION

Burkina Faso: 1, 11
Cameroon: 2, 4
Cape Verde: 5, 6, 10
Comores: 1, 59
Cote d'Ivoire: 1
Egypt: 1
Gabon: 2, 6, 30, 32, 53
Ghana: 29
Guinea: 2, 3, 21, 32, 40, 58
Libya: 1, 41
Madagascar: 2
Mali: 1
Mauritius: 2, 42
Nigeria: 38
Seychelles: 2
South Africa: 1
The Gambia: 2
Togo: 33
Tunisia: 2
Uganda: 2
Zambia: 2, 22, 35, 47, 57, 66, 71, 75

(The Definition/Interpretation sections of the laws are indexed above. By looking at a country's Definitions section you can examine **all** the definitions given in a country's law.

For the convenience of users of the index, in addition, some commonly used and significant words found in some of the Definition sections are indexed below):

Abatement:

Seychelles: 2

Zambia: 2

Administrator:

Seychelles: 2

Agency:

Seychelles: 2

Air:

Cameroon: 4(a)

Cote d'Ivoire: 1

Egypt: 1

Mauritius: 2

Beneficial use:

The Gambia: 2

Uganda: 2

Biological diversity:

The Gambia: 2

Uganda: 2

Board:

Mauritius: 2

Chairman:

Zambia: 2

Commission:

Mauritius: 2

Committee:

South Africa: 1

Zambia: 2

Company:

nil

Council:

Mauritius: 2

Seychelles: 2

South Africa: 1

Zambia: 2

Department:

Mauritius: 2
South Africa: 1

Developer:

Uganda: 2

Director:

Mauritius: 2
Nigeria: 38
Zambia: 2

Director General:

South Africa: 1

Discharge:

Mauritius: 2
Zambia: 22

Disposal:

Nigeria: 38
Zambia: 47

Dumping:

Libya: 1
Mauritius: 42
Seychelles: 2

Ecology:

Cote d'Ivoire: 1

Ecosystem:

Cameroon:4(h)
Cote d'Ivoire: 1
South Africa: 1

Effluent:

Cameroon:4(i)
Seychelles: 2
The Gambia: 2
Uganda: 2
Zambia: 22

Element:

The Gambia: 2
Uganda: 2

Emission standards:

nil

Environment:

Cameroon:4(k)
Cote d'Ivoire: 1
Egypt: 1
Libya: 1
Mauritius: 2
Nigeria: 38
Seychelles: 2
South Africa: 1
The Gambia: 2
Uganda: 2
Zambia: 2

Environmental impact assessment/declaration/statement/report etc.:

Cameroon:4(o)
Cote d'Ivoire: 1
Egypt: 1
Mauritius: 2
South Africa: 1
The Gambia: 2
Uganda: 2

Environmental pollutants:

Cameroon:4(t)
Libya: 1

Environmental pollution:

Cameroon:4(v)
Cote d'Ivoire: 1

Environmental protection:

Egypt: 1

Fauna:

nil

Flora:

nil

Fuel:

nil

Fund:

Mauritius: 2
Uganda: 2

Hazardous substances:

Mauritius: 2
Nigeria: 38
Seychelles: 2

The Gambia: 2
Uganda: 2

Hazardous wastes:

Cote d'Ivoire: 1
Seychelles: 2
Uganda: 2
Zambia: 47

Inspector:

Uganda: 2

License:

Zambia: 22, 35

Litter:

South Africa: 1

Minister:

Mauritius: 2
South Africa: 1
Uganda: 2

Monitoring:

Cote d'Ivoire: 1
Mauritius: 2
Zambia: 71
Uganda: 2

National Park:

nil

Natural resources:

Zambia: 75

Noise:

Mauritius: 2
The Gambia: 2
Zambia: 66
Uganda: 2

Occupier:

The Gambia: 2
Uganda: 2

Oil:

Egypt: 1
Libya: 1

The Gambia: 2
Uganda: 2

Owner:

Nigeria: 38
The Gambia: 2
Uganda: 2

Permit:

nil

Person:

Zambia: 2

Person responsible:

Mauritius: 2

Pollutant:

Cameroon:4(t)
Mauritius: 2
Nigeria: 38
Seychelles: 2
The Gambia: 2
Uganda: 2
Zambia: 22, 35

Pollution:

Cameroon:4(v)
Cote d'Ivoire: 1Egypt: 1
Nigeria: 38
The Gambia: 2
Uganda: 2
Zambia: 2

Premises:

The Gambia: 2
Uganda: 2

Prescribed:

Seychelles: 2
The Gambia: 2
Uganda: 2

Prime Minister:

Mauritius: 2

Protected area:

Cote d'Ivoire: 1

Rules:

nil

Sewage:

Zambia: 22

Ship:

nil

Soil:

The Gambia: 2

Uganda: 2

Standards for pollution:

Mauritius: 2

The Gambia: 2

Uganda: 2

Zambia: 2

Sustainable development:

Cameroon:4(d)

The Gambia: 2

Uganda: 2

Toxic chemical:

nil

Waste:

Cameroon:4(c)

Cote d'Ivoire: 1

Seychelles: 2

South Africa: 1

The Gambia: 2

Uganda: 2

Zambia: 47

Wastewater:

Zambia: 22

Water pollution:

Egypt: 1

Zambia: 22

Water quality:

Seychelles: 2

Water resources:

Cote d'Ivoire: 1

Libya: 41

Uganda: 2

Wetlands:

Seychelles: 2

The Gambia: 2

Uganda: 2

III. PRINCIPLES OF ENVIRONMENTAL MANAGEMENT

1. General Principles.

Cote d'Ivoire: 2, 36, 57, 64
Cape Verde: 2, 3
Uganda: 3

2. Environmental rights and duties.

A. Government.

i) Duty of government to manage and protect the environment.

Algeria: 2-4, 8, 17, 31, 79, 85, 86
Burkina Faso: 2, 4, 12, 15, 73, 86
Cameroon: 3, 95
Cape Verde: 2-4, 7, 23, 28, 32, 34, 37, 38, 46
Comores: 2, 3, 18, 68, 69
Congo: 1, 39, 40-43
Cote d'Ivoire: 35, 57, 59
Egypt: 5, 24, 44, 45
Gabon: 1, 3, 4, 33, 47, 48, 53
Ghana: 2
Guinea: 5, 16, 45, 89
Libya: 3, 5, 54
Madagascar: 3, 5-8; Annex, Title II, III, V, VI
Mali: 5-7, 13, 14
Mauritius: 5, 8, 12
Nigeria: 4, 5
Senegal: 1
Seychelles: 4
South Africa: 2
The Gambia: 3, 7, 9, 10, 36
Togo: 2, 4, 7, 12, 15, 58, 64, 74, 87
Tunisia: 3, 4, 13
Uganda: 3, 7, 8, 18, 73, 87, 95
Zambia: 6

ii) Duty of government to prohibit or restrict pollution.

Algeria: 1, 8, 59, 74
Burkina Faso: 2, 11, 31, 73
Cameroon: 3, 96
Cape Verde: 3, 7, 21
Comores: 2, 5, 25
Congo: 39
Cote d'Ivoire: 10, 53, 57, 58
Gabon: 1, 4, 33
Guinea: 9
Libya: 3, 54
Madagascar: 6
Mali: 5-7, 13, 14
Mauritius: 6, 51
Nigeria: 9
Senegal: 1-3, 5, 9
Seychelles: 4, 6

South Africa: 2, 40
 The Gambia: 3, 28, 38
 Togo: 4, 7, 15, 64
 Tunisia: 3, 6, 13
 Uganda: 3, 7
 Zambia: 6, 90

iii) Offenses by government/government officials.

Cameroon: 86
 Nigeria: 29-31
 Senegal: 30
 South Africa: 40
 Togo: 95, 100

1. Government immunity.

Mauritius: 70
 Seychelles: 39
 South Africa: 37
 The Gambia: 38, 58
 Uganda: 104

B. Citizens.

i) Public's right and duty to enjoy/protect the environment.

Algeria: 8, 16
 Burkina Faso: 28, 73
 Cameroon: 5
 Cape Verde: 2, 19, 41
 Comores: 3, 4, 48
 Cote d'Ivoire: 35
 Egypt: 26, 103
 Gabon: 3, 5, 55
 Guinea: 68
 Libya: 3
 Madagascar: 4, 7; Annex, Title II, III
 The Gambia: 3, 39, 48
 Togo: 8, 70
 Uganda: 3, 4
 Zambia: 86

IV. CONSTITUTIONAL ARRANGEMENTS

1. National

A. Institutions: responsibilities, powers, functions and duties.

Algeria: 5
 Burkina Faso: 3, 4, 15, 34, 84-86, 96
 Cameroon: 6, 8, 20, 93-95
 Cape Verde: 3, 4, 38, 39
 Comores: 6-9, 15
 Congo: 14, 67, 86

Cote d'Ivoire: 35, 42, 43, 46, 58, 60, 61, 63, 76
Egypt: 2-4, 6
Gabon: 4, 5
Ghana: 1, 4, 10, 21
Guinea: 6, 9, 10, 12, 14, 87
Libya: 7, 9
Madagascar: 9; Annex, Title II, III, V, VI
Mali: 5
Mauritius: 4, 5, 7-10, 12, 51, 53-55
Nigeria: 1-3, 7, 24
Senegal: 19, 44
Seychelles: 4, 5
South Africa: 4-7, 12-15, 17
The Gambia: 3, 6, 7, 9, 12, 13, 16, 17
Togo: 2, 3, 6, 9, 12, 13, 87
Tunisia: 1, 4, 18
Uganda: 5, 6, 7, 8, 9, 10, 13, 45,
Zambia: 3, 19-21, 81, 83

B. Procedures of administrative bodies.

Burkina Faso: 87
Cameroon: 16, 17, 20, 65, 74
Cape Verde: 35
Comores: 8, 16
Congo: 89
Cote d'Ivoire: 35, 36, 42

Egypt: 7-13, 16, 81
Ghana: 5-8, 20, 22
Guinea: 88
Mauritius: 12, 53
Nigeria: 5, 7, 8, 10, 11-14, 33
Senegal: 4, 25, 46
Seychelles: 5
South Africa: 6, 8-11, 14-16
The Gambia: 8, 11, 15
Togo: 3, 4, 8, 10, 13-19
Tunisia: 1, 17
Uganda: 7, 9, 11, 12, 14, 81, Sched 1, Sched 2
Zambia: 5, 7-11, 13-18

C. Delegation of authority.

- Cameroon: 10, 93
Ghana: 3, 9, 20, 21, 23
Mauritius: 12
South Africa: 3, 18, 28, 33
The Gambia: 62
Togo: 3, 6, 7, 49
Uganda: 14
Zambia: 6, 82

2. Provincial/municipal/local authorities, and their responsibilities, powers, functions and duties.

Algeria: 26, 45
Cameroon: 16, 93

Cape Verde: 2,3, 17, 20, 24, 27, 29, 34, 37, 38, 41
 Comores: 6, 9, 16, 56, 61
 Congo: 51
 Cote d'Ivoire: 69-74
 Egypt: 37
 Gabon: 5
 Ghana: 11
 Guinea: 14, 89
 Libya: 6
 Madagascar: 7, 8, 11; Annex, Title II, III, V, VI
 Mauritius: 5, 51
 Nigeria: 24
 Senegal: 27
 South Africa: 2, 16, 18, 21, 25, 28, 31
 The Gambia: 17-19, 21
 Togo: 13, 20, 38, 63, 70, 74, 85
 Uganda: 15, 16, 17, 19, 41, 49, 67
 Zambia: 27, 30

V. FINANCIAL MECHANISMS.

1. Funding arrangements; grants/loans/incentives.

Burkina Faso: 98, 99
 Cameroon: 11, 12, 75
 Cape Verde: 19, 22-24, 27, 41, 42, 48
 Comores: 10, 15, 16
 Congo: 88
 Cote d'Ivoire: 47, 51
 Egypt: 5, 14-18
 Ghana: 16-19, 24, 25
 Guinea: 16, 87-89
 Madagascar: 8; Annex, Title III, V, VI
 Nigeria: 5
 Togo: 8-11, 74
 Tunisia: 6, 7, 14-17
 Uganda: 10, 89, 90, 91, 92, 93, 94, 95

2. Tax incentives.

Cameroon: 11, 75, 76
 Cape Verde: 19, 24, 40, 48
 Cote d'Ivoire: 47
 Guinea: 7
 Senegal: 7, 32
 The Gambia: 29
 Togo: 74
 Tunisia: 6, 7, 15
 Uganda: 34, 91, 94

3. Pollution fees/user fees.

Burkina Faso: 17, 18
 Cameroon: 12
 Cape Verde: 27, 33
 Comores: 15
 Congo: 66, 79, 87

Cote d'Ivoire: 36
Ghana: 2
Guinea: 73, 88
Madagascar: 11
Senegal: 18, 19
Seychelles: 13
The Gambia: 29
Togo: 10, 68
Uganda: 3, 58, 59, 60, 63, 89, 94, 95

A. Determination of amount:

Cameroon: 11, 12
Ghana: 28
Uganda: 63, 93

B. Exemptions:

Cameroon: 76

VI. ENVIRONMENTAL PLANNING.

1. Environmental policies/plans/reports/inventories/registers.

Burkina Faso: 86
Cameroon: 10, 13, 40, 64
Cape Verde: 4, 16, 27, 28, 50
Comores: 55
Congo: 41
Cote d'Ivoire: 24, 36, 40, 69
Egypt: 5
Gabon: 4, 54
Ghana: 2, 26
Guinea: 45, 84
Madagascar: 5; Annex, Title II-VI
Nigeria: 4
The Gambia: 7, 10, 19-21, 40
Togo: 2, 7, 21, 82
Tunisia: 3, 6
Uganda: 7, 10, 15, 17, 18, 19, 42, 79, 87

2. Sustainable development.

Cameroon: 4(d), 63
Cape Verde: 2-4
Cote d'Ivoire: 70
Gabon: 1
Madagascar: 6; Annex, Title II, III
Uganda: 2, 42
Zambia: 6

3. Integration of environment and development.

Algeria: 3
Cameroon: 14
Cape Verde: 3, 5, 10, 18
Comores: 2, 6, 48

Gabon: 1, 3, 10, 18
 Guinea: 5, 8, 45, 54, 56
 Libya: 6
 Madagascar: 6, 7; Annex, Title II, III
 South Africa: 26, 28
 The Gambia: 7, 19
 Togo: 15, 78, 85

4. Energy planning and management.

Cameroon: 24
 Cape Verde: 23
 Togo: 7
 Uganda: 47

5. Environmental emergencies.

Cameroon: 10, 56, 70
 Cape Verde: 25, 34
 Comores: 70-72
 Egypt: 5, 25
 Gabon: 52, 72-74, 87
 Guinea: 85, 86, 114
 Madagascar: Annex, Title V
 The Gambia: 40
 Togo: 5, 87
 Uganda: 67

6. Designation and protection of historical sites, natural/scenic areas, national parks, resort and recreation areas, cultural heritage, environmentally critical areas, other special areas.

Algeria: 10, 17-26, 30, 74
 Burkina Faso: 11, 57, 73, 75, 78
 Cameroon: 39, 64, 66
 Cape Verde: 4, 16, 18-20, 27, 29, 34, 40
 Comores: 46-49, 52, 56
 Congo: 1, 9, 11-16, 39, 70
 Cote d'Ivoire: 54, 55
 Egypt: 5
 Gabon: 27-29, 87, 90
 Guinea: 25, 45, 52-57
 Libya: 58, 59
 Madagascar: 6; Annex, Title II
 Senegal: 11, 49
 Seychelles: 6, 8, 11
 South Africa: 16-18, 23, 27, 44
 The Gambia: 31, 33
 Togo: 15, 81, 82, 85, 86, 100
 Uganda: 3, 36, 37, 38, 39, 40, 41, 42, 43, 46, 50, 68, 73

7. Human settlements.

Burkina Faso: 12, 73
 Cameroon: 39, 40
 Cape Verde: 5
 Comores: 23, 54-56, 58, 69
 Congo: 3, 41
 Cote d'Ivoire: 1, 6, 22, 39

Gabon: 24, 47, 52, 55
Guinea: 44-46
Libya: 73
Uganda: 49

8. Population.

Madagascar: Annex, Title II

VII. ENVIRONMENTAL IMPACT ASSESSMENT.

[See also separate index on EIA]

Algeria: 130-133
Burkina Faso: 1, 4, 10, 15, 30, 31, 72, 74, 89, 90
Cameroon: 17, 18, 19, 55
Cape Verde: 30, 31
Comores: 11-14, 69, 76
Congo: 2, 41, 47, 68
Cote d'Ivoire: 25, 36, 40, 41, 42, 43, 44, 51, 90, 94, 114
Egypt: 19-23
Gabon: 49, 63, 67-71, 87
Ghana: 2, 12, 28
Guinea: 47, 82, 83, 113
Madagascar: 10
Mauritius: 13-16, 18-23, 49, Sched. 1
Senegal: 5, 9, 10
Seychelles: 15
South Africa: 2, 21, 22, 26
The Gambia: 22-26, 53, Sched. Part A, B
Togo: 22-32, 70
Tunisia: 5
Uganda: 2, 3, 7, 11, 20, 21, 22, 23, 24, 37, 61, 97, Sched 3
Zambia: 6

VIII. POLLUTION CONTROL MECHANISMS.

[See also section X (Control of Pollution), and XI (Enforcement), this index]

Cameroon: 54

1. Environmental standards.

A. Pollution emission and discharge standards.

Cameroon: 10, 22
Cape Verde: 4, 23, 25, 26, 34
Cote d'Ivoire: 14, 19, 28, 29, 30, 35, 39, 49, 50, 62, 70, 79, 81, 95, 98,
Egypt: 5, 29, 30, 71
Gabon: 44, 46, 63-66, 89
Ghana: 2, 28
Guinea: 8
Mauritius: 6, 32
Nigeria: 5
Senegal: 10
Seychelles: 4, 6, 9, 12
The Gambia: 10, 14, 28, 55
Tunisia: 8

Uganda: 3, 25-33, 99
Zambia: 6, 61, 66, 67, 72

B. Environmental laboratories.

Cape Verde: 23
Cote d'Ivoire: 76
Egypt: 71
Mauritius: 12, 41, 51
Seychelles: 25, 26
The Gambia: 42, 44-46
Uganda: 83, 84, 85
Zambia: 23, 36, 58

2. Licensing.

A. General.

Algeria: 52, 80
Burkina Faso: 13, 22, 33, 49, 67
Cameroon: 34, 48
Cape Verde: 11, 24, 27, 33
Congo: 42, 57, 59, 66
Cote d'Ivoire: 12, 16, 17, 44, 45
Egypt: 29, 56, 70, 80
Gabon: 11, 48
Ghana: 28
Guinea: 16, 19, 35, 39, 47, 51, 54, 56, 69-72, 76, 110
Libya: 7
Mali: 5, 11
Nigeria: 25
Senegal: 5, 20, 21, 27
Seychelles: 17
South Africa: 20, 24
Togo: 47, 48, 64, 67, 73
Tunisia: 3
Uganda: 58, 59
Zambia: 30, 31, 33, 42, 43, 45, 47, 50-53, 59-61, 73, 90, 93

B. Licensing authority.

Algeria: 79
Burkina Faso: 49
Cape Verde: 27, 33
Cote d'Ivoire: 9, 12, 16, 17, 23, 34, 64, 67, 98
Egypt: 31, 56
Gabon: 11, 48
Guinea: 47, 72
Senegal: 5
South Africa: 20, 24
Togo: 49
Uganda: 59, 60, 61
Zambia: 30, 31, 45, 90, 92, 93

C. Register of licenses.

South Africa: 20
Uganda: 66

D. License fees.

Burkina Faso: 17-19, 67
Cameroon: 23
Cote d'Ivoire: 42
Guinea: 73
Togo: 48
Uganda: 60, 63

E. Content of license application.

Cameroon: 55
Cape Verde: 33
Cote d'Ivoire: 44
Mali: 12
Togo: 47
Uganda: 60, 62

F. Conditions attached to license.

Algeria: 81
Burkina Faso: 13, 14, 33
Cameroon: 55
Cape Verde: 26, 33
Cote d'Ivoire: 16, 23, 43, 102, 104
Egypt: 71
Gabon: 11, 48, 58
Guinea: 16, 19, 71, 73
Togo: 47
Uganda: 61, 62, 101

G. Licensee to comply with license.

Cote d'Ivoire: 44, 70, 102, 104
Uganda: 59, 65

H. Duration, suspension, revocation and renewal of license.

Algeria: 53
Burkina Faso: 67
Cape Verde: 48
Congo: 44
Cote d'Ivoire: 102
Egypt: 71, 86
Togo: 48, 50, 76
Uganda: 20, 64, 65, 106
Zambia: 88, 94

I. Modification or change in operation of facility.

Burkina Faso: 21
Guinea: 73
Uganda: 25

J. Transfer of license.

Guinea: 72
Senegal: 5
Togo: 48

 IX. CONSERVATION OF NATURAL RESOURCES.

1. Biological diversity.

A. General.

Algeria: 8
 Burkina Faso: 2, 73, 79
 Cameroon: 27, 62, 94
 Cape Verde: 4, 15, 16, 21, 29
 Comores: 18, 40
 Cote d'Ivoire: 1, 2, 16, 36, 51, 52, 53, 57, 60, 78, 82, 88, 89,
 Gabon: 10, 22
 Madagascar: 6; Annex, Title II, III
 South Africa: 2, 16
 The Gambia: 32-34
 Uganda: 3, 11, 42, 43, 44, 45

B. Introduction of new species.

Algeria: 12
 Cape Verde: 16
 Comores: 44
 Cote d'Ivoire: 16
 Gabon: 26
 Guinea: 50, 56
 Togo: 80, 95
 Uganda: 43

C. Protection of flora/vegetation.

Algeria: 8, 10, 11, 13, 17, 21
 Burkina Faso: 80-82
 Cameroon: 24, 64, 75, 94
 Cape Verde: 8, 15
 Comores: 39-41, 52
 Congo: 1, 11, 18, 19, 36, 49, 71
 Cote d'Ivoire: 2, 16, 36, 41, 52, 57, 58, 60, 82
 Gabon: 8, 22-25, 28, 90
 Ghana: 28
 Guinea: 48-50, 107
 Libya: 56, 57
 Madagascar: Annex, Title III
 Mauritius: 35, 47, 57, 59-61, 63, 65, 84
 The Gambia: 31
 Togo: 35, 43, 78-81, 99
 Uganda: 38, 42, 43, 44, 68, 73
 Egypt: 27

D. Protection of wildlife.

i) General

Algeria: 8, 10-12, 14, 15, 17, 21, 27, 28
 Burkina Faso: 57, 64, 79-82
 Cameroon: 63, 64, 69, 95
 Cape Verde: 4, 8, 16
 Comores: 39-41, 45, 52
 Congo: 1, 11, 18, 19, 36, 49, 71

Cote d'Ivoire: 2, 16, 36, 41, 52,
Gabon: 8, 22, 23, 25, 28, 90
Ghana: 28
Guinea: 48-51, 107, 108
Libya: 55
Madagascar: Annex, Title III
Mauritius: 35
Togo: 35, 43, 78-81, 99, 101
Uganda: 38, 44, 68, 73

ii) Regulation of hunting.

Algeria: 10, 11
Burkina Faso: 80
Cameroon: 64
Cape Verde: 16
Comores: 41
Congo: 19
Cote d'Ivoire: 17, 18, 88, 89
Egypt: 28
Guinea: 16
Libya: 60, 61, 74
Madagascar: Annex, Title II
Togo: 79, 99
Uganda: 43

X. CONTROL OF POLLUTION.

1. Water.

A. Water supply and management.

Algeria: 17, 36
Burkina Faso: 64
Cameroon: 25
Cape Verde: 10, 12
Comores: 18, 24-26, 54, 69
Congo: 1, 8, 28, 30, 41, 70, 73
Cote d'Ivoire: 13, 14, 15, 36, 38, 50, 52, 58, 61, 77
Gabon: 10, 11
Guinea: 21-23, 25, 99
Libya: 40-46, 50, 54
Madagascar: Annex, Title II, III
Seychelles: 7
Togo: 54, 59-61, 77, 81
Uganda: 26, 27, 35, 36, 37, 38, 73

B. Water pollution.

i) General.

Algeria: 36, 37, 43
Burkina Faso: 61, 62, 64, 66
Cameroon: 30, 53, 82
Cape Verde: 10, 21
Comores: 28
Congo: 8, 28, 41, 49

Cote d'Ivoire: 13, 36, 39, 61, 77, 79, 82, 83, 100,101
 Egypt: 37, 48
 Gabon: 8, 11, 12, 88, 89
 Guinea: 24, 31, 35, 84
 Libya: 3, 37, 46, 47
 Madagascar: Annex, Title II
 Mali: 1, 9, 10, 19
 Mauritius: 34
 Nigeria: 9
 Senegal: 33
 Seychelles: 7
 South Africa: 20
 The Gambia: 38, 57
 Togo: 35, 43-45, 49, 77
 Uganda: 26, 27
 Zambia: 22-24, 32

ii) Water quality standards.

Algeria: 38
 Burkina Faso: 63, 66
 Cameroon: 25
 Cape Verde: 10
 Comores: 27
 Cote d'Ivoire: 14,26,50
 Egypt: 71
 Gabon: 11, 12
 Guinea: 26
 Mauritius: 33
 Nigeria: 15
 Senegal: 34
 Seychelles: 6
 The Gambia: 28
 Togo: 49
 Uganda: 26, 27
 Zambia: 23, 24

iii) Protection of beaches, marine life, inland waters and the sea.

Algeria: 11, 17, 36, 48-54, 66-71, 73
 Burkina Faso: 72
 Cameroon: 31, 32, 34
 Comores: 18, 31, 32, 35, 79, 80
 Congo: 1, 30-32, 74
 Cote d'Ivoire: 36, 52, 58, 67, 70, 77, 78, 79, 83, 99, 100
 Egypt: 5, 32, 48-63, 66-69, 73, 74, 77
 Gabon: 7-10, 12, 28, 90
 Guinea: 27, 32-34, 36-39, 93, 100-104
 Libya: 22-39, 56, 67-69
 Madagascar: Annex, Title VI
 Mali: 9
 Mauritius: 42-44
 Nigeria: 21
 Senegal: 33, 34, 40-47
 Seychelles: 7, 11
 The Gambia: 30
 Togo: 54-56, 77, 81

Tunisia: 4, 12
Uganda: 35, 36, 37, 38, 73

iv) Regulation of fishing.

Cameroon:31
Cape Verde: 16
Comores: 32
Cote d'Ivoire: 38, 45, 52, 57, 58, 60,78,82,88
Gabon: 11, 28
Libya: 19-21
Madagascar: Annex, Title II
Seychelles: 7

v) Sewage and industrial wastewater effluents.

Algeria: 36, 40, 41, 47
Burkina Faso: 24, 31, 65
Cameroon: 29, 30
Cape Verde: 10
Comores: 29, 30, 34, 54, 78
Congo: 6
Cote d'Ivoire: 13,26, 29,36,50,51,79,83
Gabon: 87, 88
Guinea: 28-30
Libya: 44, 49
Mali: 9, 10
Mauritius: 34
Nigeria: 16
The Gambia: 28
Togo: 43
Uganda: 27, 57, 58
Zambia: 22-33

2. Air.

A. Pollution, general

Algeria: 17, 32, 35
Burkina Faso: 56, 58
Cameroon: 21, 22, 23, 53, 82
Cape Verde: 8, 21
Comores: 18, 37, 38
Congo: 21, 22, 26, 72
Cote d'Ivoire: 1, 19, 20, 21, 36, 50, 58, 67,76,77
Egypt: 34, 35, 40, 43
Gabon: 20, 87
Guinea: 41-43, 106
Libya: 3, 11-13, 16
Mali: 1, 11-13, 19
Nigeria: 9, 17, 18
Senegal: 48-54
Seychelles: 8
Togo: 35, 43, 45, 49
Uganda: 25
Zambia: 35-45

B. Air quality and emission standards.

Burkina Faso: 58
Cameroon: 10, 22, 23
Cape Verde: 8
Congo: 25
Cote d'Ivoire: 50
Egypt: 34-36, 40, 43
Gabon: 20
Guinea: 42
Mauritius: 35
Nigeria: 17
Seychelles: 6
The Gambia: 28
Uganda: 25
Zambia: 35, 36, 38, 39

C. Fuels.

Algeria: 35
Burkina Faso: 58
Cameroon: 32, 77, 83
Libya: 18
Senegal: 49
Seychelles: 8
Uganda: 33
Zambia: 37

D. Motor vehicle pollution.

Algeria: 33, 35, 57
Burkina Faso: 58
Cape Verde: 8
Comores: 38
Congo: 23
Egypt: 36
Gabon: 20
Guinea: 42
Libya: 17
Mauritius: 35
Senegal: 49
The Gambia: 38
Togo: 45
Zambia: 44

E. Lead in motor gasoline.

F. Power to test and prohibit use of vehicles.

Burkina Faso: 58
Congo: 24

G. Protection of the climate/ozone layer:

Burkina Faso: 56, 79
Congo: 27
Cote d'Ivoire: 5, 20, 21, 50, 57, 66, 67
Nigeria: 18

Seychelles: 10
The Gambia: 37
Uganda: 25, 51

3. Noise.

A. Pollution, general

Algeria: 119-121, 129
Burkina Faso: 69
Cameroon: 60, 61
Cape Verde: 22
Congo: 60, 61, 63, 64, 85
Cote d'Ivoire: 30, 31, 32, 50, 86
Egypt: 34, 42, 87
Gabon: 31, 44, 45, 86
Ghana: 2
Guinea: 79, 112
Mali: 1, 14, 20
Nigeria: 19
Senegal: 55-62
Seychelles: 9
South Africa: 25
Togo: 62, 63
Uganda: 29
Zambia: 66-70

B. Noise emission standards

Cameroon: 60
Cape Verde: 22
Congo: 65
Cote d'Ivoire: 50
Egypt: 42
Gabon: 44, 46, 86
Guinea: 81
Mauritius: 36
Nigeria: 19
Senegal: 57
Seychelles: 6, 9
South Africa: 25
The Gambia: 28
Uganda: 29
Zambia: 67, 68, 70

C. Motor vehicle noise.

Burkina Faso: 70
Cape Verde: 22
Congo: 62
Cote d'Ivoire: 30, 86
Gabon: 4
Senegal: 57
Togo: 63
Uganda: 29
Zambia: 67

D. Aircraft noise.

Burkina Faso: 70
Cape Verde: 22
Uganda: 29

E. Miscellaneous noise sources.

Cameroon: 60, 61
Cape Verde: 22
Cote d'Ivoire: 30, 31, 32, 86
Uganda: 29

4. Other pollutants.

A. Odors:

Burkina Faso: 56, 57
Cameroon: 21, 60
Congo: 48
Cote d'Ivoire: 86
Gabon: 56, 57, 86
Guinea: 80, 112
Mauritius: 40
Seychelles: 6
Togo: 63
Uganda: 28

B. Tobacco smoke:

Egypt: 46, 87

C. Toxic substances, pesticides, fertilizers:

Burkina Faso: 31, 32, 43-46, 52-54
Cameroon: 36, 57, 83
Cape Verde: 13, 23, 24
Comores: 21
Congo: 32, 34, 36, 84
Cote d'Ivoire: 8, 21, 50, 62, 84, 85, 134
Egypt: 38
Gabon: 16, 17, 88
Guinea: 18, 41, 96, 111
Libya: 36, 50, 51, 57
Mauritius: 39
Seychelles: 6
Togo: 42
Uganda: 56, 57
Zambia: 57-65

D. Lights:

Cape Verde: 9
Cote d'Ivoire: 86
Gabon: 60, 61, 87

E. Minerals:

Cote d'Ivoire: 10, 37
Mali: 10

F. Oil and petroleum:

Algeria: 73
Burkina Faso: 31
Cameroon: 33, 77, 83
Comores: 35
Cote d'Ivoire: 10, 37
Egypt: 41, 49, 50, 52, 53, 55, 56, 58, 59, 76, 77, 90, 92, 93
Gabon: 72
Guinea: 36, 90
Libya: 1, 5, 23-30, 32, 69
The Gambia: 30, 38, 40, 57
Uganda: 57

G. Cleaning substances:

Cameroon: 83

H. Cemeteries:

Burkina Faso: 24
Libya: 54

I. Litter:

Seychelles: 12
South Africa: 19

J. Vibration:

Gabon: 31, 45, 86
South Africa: 25
The Gambia: 28
Uganda: 29, 30

K. Miscellaneous:

Burkina Faso: 24
Cameroon: 30, 31
Cape Verde: 13, 23
Congo: 48
Gabon: 31, 59, 87
Togo: 43, 63
Uganda: 33

5. Land

A. General.

Algeria: 9
Burkina Faso: 11, 86
Cameroon: 36, 38, 68
Cape Verde: 9, 17

Comores: 20
Congo: 34
Gabon: 14, 24
Guinea: 15-20, 54
Madagascar: 6; Annex, Title III
Seychelles: 7
South Africa: 18
Togo: 35
Uganda: 49, 73
Zambia: 75, 77, 78

B. Land use management/plans.

Cameroon: 38, 68
Cape Verde: 13-15, 17
Gabon: 14, 24, 55
Guinea: 45, 46
Madagascar: Annex, Title II, III, VI
South Africa: 21
Uganda: 37-41, 48, 49
Ukraine: 15
Zambia: 76

C. Soil conservation, erosion, pollution.

Algeria: 9, 17
Cameroon: 36, 50, 51, 53, 68, 75, 82
Cape Verde: 13, 14, 21, 27
Comores: 18, 21, 22, 52, 54
Congo: 8, 16, 34, 35, 37, 38, 49, 75
Gabon: 13-16, 18, 87
Guinea: 15-19, 54, 97
Libya: 56
Madagascar: Annex, Title II, III, VI
Seychelles: 7, 11
The Gambia: 28, 31
Togo: 35, 43, 49, 54, 57, 58, 60, 81, 83
Uganda: 11, 31, 37, 38, 39, 41, 48, 68
Zambia: 76

D. Protection and exploitation of mineral resources/mining operations.

Algeria: 17
Cameroon: 36, 67
Cape Verde: 14, 18, 33
Comores: 22, 23
Gabon: 13, 14
Guinea: 98
Seychelles: 11
The Gambia: 31
Togo: 57, 101

E. Concessions granted by government.

Cameroon: 37, 41

F. Compensation by government for restrictions on land use/acquisition of property.

Algeria: 22
Cameroon:37
Congo: 12
Guinea: 57
South Africa: 34
Togo: 84
Uganda: 73, 77

6. Forests/reforestation.

Burkina Faso: 76, 77
Cameroon: 24
Cape Verde: 15, 18, 27, 40
Comores: 50-52
Congo: 15-17
Guinea: 20, 55, 56, 89, 95
Madagascar: Annex, Title II, III
The Gambia: 31
Togo: 81
Uganda: 40, 46, 68

7. Waste management.

A. General.

Algeria: 89-92, 94, 95, 97-100
Burkina Faso: 24-31, 66
Cameroon:4(q), 30, 42, 43, 46, 47, 51, 98
Comores: 54, 59-63, 78
Congo: 4, 6, 7, 48-55, 69, 81, 83
Egypt: 31, 37, 39, 72, 80, 93
Gabon: 15, 19, 31-39, 55, 58, 86, 87
Ghana: 2
Guinea: 58-67, 109
Libya: 15, 28, 29, 48, 54
Mali: 1-3, 6, 8, 17
Mauritius: 38
Seychelles: 12
South Africa: 20, 21, 24
The Gambia: 28, 56
Togo: 7, 33-41, 101
Tunisia: 8, 9
Uganda: 53, 54, 68, 78, 98,
Zambia: 47-56

B. Waste receptacles/disposal areas.

Algeria: 125
Burkina Faso: 24, 30
Cameroon: 43, 44
Cape Verde: 24
Egypt: 37
Gabon: 38, 55
Mali: 4, 5
Seychelles: 12
South Africa: 19, 24
Uganda: 53, 68, 100

C. Packaging requirements.

Cameroon: 44
Seychelles: 13
South Africa: 24
Togo: 36, 37
Uganda: 53

D. Recycling requirements.

Algeria: 101
Cameroon: 43, 50
Cape Verde: 23, 24
Congo: 50
Gabon: 37
Ghana: 28
Seychelles: 13
South Africa: 24
Togo: 36, 41
Tunisia: 8
Uganda: 53

8. Hazardous materials.

A. Hazardous waste.

Cameroon: 43, 98
Comores: 64, 65
Congo: 53, 82
Egypt: 5, 29, 60, 61, 70
Ghana: 28
Mali: 7
Mauritius: 37
Seychelles: 12
Togo: 39
Uganda: 54, 55, 100
Zambia: 47, 49, 51-53

B. Hazardous substances.

Algeria: 102-108
Cameroon: 33, 57, 58, 59, 80, 81
Egypt: 5, 29-33, 60, 61
Gabon: 31, 40, 41, 89
Guinea: 36, 96
Mauritius: 37
Nigeria: 20-22
Seychelles: 7, 11, 14
The Gambia: 56
Uganda: 52, 56, 57

C. Toxic chemicals.

Algeria: 109-118, 127, 128
Burkina Faso: 31
Cameroon: 36, 57, 83
Cape Verde: 23, 33
Comores: 65-67

Congo: 57, 58
Egypt: 29
Gabon: 16, 40, 88
Ghana: 10
Guinea: 75-78, 111
South Africa: 21
The Gambia: 56
Togo: 51, 52
Uganda: 56, 57, 100

D. Micro organisms, genetically engineered organisms or cells, radioactive or nuclear material.

Algeria: 102
Burkina Faso: 37, 41, 62
Cameroon: 57, 64
Cape Verde: 25, 35
Comores: 65
Congo: 52, 82
Egypt: 47
Libya: 4, 36
Senegal: 49
The Gambia: 28
Togo: 42, 53, 98
Uganda: 32, 54, 100
Zambia: 71-74

XI. ENFORCEMENT

1. Power to prohibit or control discharge of pollutants.

Algeria: 59, 137-140
Burkina Faso: 31, 32, 57-59, 65
Cameroon: 22, 61
Cape Verde: 7, 10, 11, 22, 24, 26, 35
Comores: 18, 19, 58, 63
Congo: 1, 10, 36, 40-42, 67, 78
Egypt: 24, 57
Gabon: 18, 23, 33, 42, 50, 62, 65
Ghana: 2, 13
Guinea: 15-19, 36, 43, 74, 89
Libya: 8, 10, 13
Madagascar: 11
Mali: 16-19
Mauritius: 12, 24, 25, 57-59
Senegal: 1-3, 10, 29, 45, 53
Seychelles: 7, 8, 10, 12
South Africa: 21
The Gambia: 3, 26, 39
Togo: 7, 35, 43, 45-47, 62, 67, 69, 74
Tunisia: 3, 8, 10
Uganda: 57, 68, 69, 95
Zambia: 6

2. Emergency action.

Algeria: 31
Cameroon: 22, 32, 56, 60
Cape Verde: 34

Comores: 8
Congo: 5, 88
Egypt: 25, 26
Gabon: 63, 72
Ghana: 13, 14
Guinea: 12, 43, 74, 79, 84, 86
Libya: 14
Madagascar: Annex, Title V
Mauritius: 6, 29, 30, 59, 65
Senegal: 13, 14, 29, 34
Seychelles: 4, 17, 23, 24
Togo: 4, 5, 19, 72
Uganda: 67

3. Service of notices.

Cameroon: 52, 88
Comores: 19, 58
Congo: 80
Gabon: 80
Ghana: 13
Guinea: 4
Libya: 5, 32, 33
Mauritius: 57-63
Senegal: 26, 27
Seychelles: 16, 18, 29
South Africa: 32
The Gambia: 38
Togo: 71
Tunisia: 12
Uganda: 68, 69
Zambia: 65

4. Power to restrict location of industry.

Cameroon: 20, 96
Cape Verde: 36
Gabon: 55
Senegal: 3, 9
Togo: 65

5. Power to require submission of plans, and their approval.

Cameroon: 55, 96
Cape Verde: 33
Mauritius: 57
Uganda: 20, 21

6. Requirement to keep records and furnish information.

Algeria: 113, 117, 125, 128
Burkina Faso: 66, 92
Cameroon: 15
Congo: 55, 79, 80, 83
Egypt: 33, 55, 58, 62, 82, 93
Gabon: 74, 78
Ghana: 27
Guinea: 37, 76

Libya: 11, 69
Mali: 7, 12, 18
Mauritius: 24, 57, 64, 65
Nigeria: 22
Senegal: 16, 18
Seychelles: 37
The Gambia: 42, 52, 54
Togo: 39, 47, 69, 89, 96
Uganda: 78, 79, 81, 96, 98
Zambia: 6, 23, 25, 41, 58, 84

7. Power to monitor, including to enter, inspect, take samples.

Algeria: 84, 125, 137, 138
Burkina Faso: 16, 23, 92, 93
Cameroon: 26, 57, 88
Cape Verde: 22, 27, 33
Egypt: 5, 75, 80
Gabon: 40, 66, 78
Ghana: 14, 15
Guinea: 73, 74, 94
Libya: 8, 18, 32
Mali: 15
Mauritius: 30, 57, 64-66
Nigeria: 25, 26
Senegal: 14, 24, 34, 39, 50, 58
Seychelles: 8, 12, 22, 25
The Gambia: 3, 26, 42, 43, 52
Togo: 7, 49, 89-91
Tunisia: 3, 10
Uganda: 3, 56, 69, 81, 82, 96
Zambia: 25, 72, 73, 78, 84

8. Power to prohibit use of material or equipment.

Cameroon: 23, 61, 84
Gabon: 41, 84
Libya: 13
Senegal: 49, 57
Uganda: 81

9. Power to require occupier to install, operate, maintain, repair, restore, equipment, and to correct environmental deficiencies.

Algeria: 33, 56, 58, 59, 87, 123
Burkina Faso: 21, 59
Cameroon: 34, 37, 84
Cape Verde: 22
Congo: 45, 53
Egypt: 22, 57, 63, 89, 92, 98
Gabon: 51, 88
Ghana: 13
Guinea: 36, 74
Libya: 13
Mauritius: 25, 27
Senegal: 26, 36, 49, 57
The Gambia: 42
Togo: 45, 71, 87

Tunisia: 12
Uganda: 25, 27, 68, 69, 81, 96

10. Power to restrict, suspend or close offending sources of pollution or activities.

Algeria: 14, 85, 87, 88, 123, 124, 128
Burkina Faso: 20
Cameroon: 23, 61, 84
Cape Verde: 27, 35, 43, 49
Congo: 10, 45, 77, 80
Gabon: 88, 89
Guinea: 43, 73, 74
Libya: 13
Mali: 15, 20
Mauritius: 68
Senegal: 9, 15, 22, 23, 26-28, 52
The Gambia: 38, 42
Togo: 50, 71, 90
Tunisia: 11
Uganda: 81

11. Power to seize offending source of pollution.

Algeria: 63, 128
Burkina Faso: 94
Cameroon: 59, 61
Cape Verde: 48, 49
Comores: 75
Egypt: 98, 100
Gabon: 78, 84
Guinea: 77
Mauritius: 30, 68
Seychelles: 22
South Africa: 30
The Gambia: 38, 42
Togo: 92, 102
Tunisia: 12
Uganda: 81, 106

12. Power to restrict or prohibit imports and exports of polluting materials.

Burkina Faso: 36, 37, 41, 45, 46, 49, 54
Cameroon: 58, 59
Comores: 64
Congo: 26, 52, 59, 82
Egypt: 32
Gabon: 41
Ghana: 28
Guinea: 76
Seychelles: 12
Togo: 40, 42, 45, 51
Uganda: 55, 56, 100
Zambia: 56

13. Product warning and labelling.

Guinea: 76
Uganda: 56, 100

Zambia: 57, 58, 64

14. Attempts and abetments.

Burkina Faso: 38

Cape Verde: 48

Uganda: 100

15. Offenses by companies, bodies of persons, servants and agents.

Algeria: 61, 68, 71

Burkina Faso: 39

Cameroon: 32, 78

Cape Verde: 42

Egypt: 72, 96

Ghana: 27

Guinea: 91

Mauritius: 71

Nigeria: 20, 36

Senegal: 38, 42

Seychelles: 33

The Gambia: 59

Togo: 98

16. Exemptions from enforcement control.

Algeria: 70, 71

Cameroon: 76, 77

Congo: 29, 30

Egypt: 51, 54

Guinea: 34, 90

Libya: 11, 24

Senegal: 18, 41

The Gambia: 58

Togo: 44, 59

Uganda: 104

XII. SETTLEMENT/ADJUDICATION OF DISPUTES

1. Institutional mechanisms.

A. Jurisdiction.

Algeria: 64

Burkina Faso: 59

Cameroon: 88

Cape Verde: 45, 46

Comores: 74

Egypt: 99

Gabon: 83

Guinea: 93

Libya: 10

Mauritius: 47, 69

Nigeria: 29

Senegal: 22, 36, 47

South Africa: 15

The Gambia: 4

Tunisia: 11
Uganda: 72, 73, 74, 76, 81, 105, 106
Zambia: 28

B. Institution of actions.

Algeria: 134
Burkina Faso: 91, 95
Cameroon: 88, 89, 90
Cape Verde: 41, 43, 46
Comores: 73, 74
Egypt: 5, 53, 78, 83, 102, 104
Gabon: 76, 77, 81, 82, 87
Guinea: 92
Libya: 10, 65, 70
Mali: 15
Mauritius: 46
Senegal: 25, 35, 44, 45, 54, 62
The Gambia: 4
Togo: 88, 93
Tunisia: 12, 13
Uganda: 4, 68, 69, 72, 74, 75, 105

2. Process.

A. Mediation/arbitration.

Cameroon: 91, 92, 93

B. Injunctions.

Cape Verde: 43
Senegal: 49, 57
Uganda: 4, 68

C. Evidence.

Algeria: 138
Burkina Faso: 94
Cameroon: 89
Gabon: 78-80
Ghana: 27
Mauritius: 27, 47
Seychelles: 25, 28, 29

D. Liability.

i) General.

Burkina Faso: 35
Cameroon: 33, 77, 78, 84
Cape Verde: 44
Guinea: 90
Mauritius: 27
Uganda: 68

ii) Recovery of damages, costs and expenses.

Algeria: 61, 65, 100
Burkina Faso: 59
Cameroon: 32, 48, 59, 77
Cape Verde: 41, 42, 45, 46, 49
Comores: 19, 58
Congo: 29, 33, 38, 56, 58
Egypt: 22, 54, 89, 98
Ghana: 14
Guinea: 36, 43, 90
Libya: 65
Mali: 8
Mauritius: 27, 28
Nigeria: 21
Senegal: 22, 26, 28, 38
Seychelles: 32
South Africa: 29
The Gambia: 38, 39, 60
Togo: 7, 101
Uganda: 57, 68, 71, 106
Zambia: 77, 90

iii) Restoration of environmental damage.

Algeria: 56, 58
Burkina Faso: 59
Cameroon: 33, 48, 52, 77, 78
Cape Verde: 3, 24, 49
Comores: 23, 75
Congo: 29
Egypt: 75
Libya: 14
Mauritius: 25, 26
Senegal: 36-38, 51, 60
Seychelles: 32, 36
South Africa: 29
The Gambia: 38, 39, 60
Togo: 7, 95
Tunisia: 8
Uganda: 57, 68, 71, 102, 106

E. Appeals.

Egypt: 80
Gabon: 80
Mauritius: 49
Senegal: 18
South Africa: 35, 36
Uganda: 68, 69, 70, 105
Zambia: 95

3. Penalties.

Algeria: 14, 27-29, 55, 56, 58-62, 66-73, 122-129, 139
Burkina Faso: 21, 22, 28, 29, 38, 40, 42, 55, 59, 60, 77, 83
Cameroon: 32, 51, 77, 79, 80

Cape Verde: 48
 Comores: 76-88
 Congo: 68-8
 Egypt: 14, 54, 79, 84-95, 97, 98, 101
 Gabon: 74, 85-93
 Ghana: 13-15, 27, 28
 Guinea: 88, 95-114
 Libya: 65-74
 Madagascar: 11
 Mali: 16-20
 Mauritius: 67
 Nigeria: 20, 27, 34-36
 Senegal: 18, 20-28, 36-42, 45, 51-53, 59-62
 Seychelles: 29-31, 36-38, 40
 South Africa: 28, 29
 The Gambia: 38, 39, 42, 51-57
 Togo: 10, 76, 94-100
 Tunisia: 11
 Uganda: 57, 68, 69, 89, 96, 97, 98, 99, 100, 101, 102, 103, 106, 107
 Zambia: 12, 64, 74, 77, 85, 86, 91

4. Insurance.

Egypt: 59

XIII. IMPLEMENTATION OF INTERNATIONAL LEGAL AGREEMENTS AND INSTRUMENTS

Algeria: 69, 71
 Burkina Faso: 97
 Cameroon: 14, 15, 24, 31, 65, 68, 69
 Cape Verde: 3, 25, 51
 Comores: 5, 65
 Congo: 27, 87
 Egypt: 5, 51, 59, 65, 76
 Ghana: 2
 Guinea: 33, 53, 88
 Libya: 7
 Madagascar: Annex, Title II, III
 Nigeria: 4
 Senegal: 40, 47
 Seychelles: 10
 South Africa: 28, 38, 39
 The Gambia: 37
 Togo: 2, 10, 52
 Tunisia: 3
 Uganda: 3, 107
 Zambia: 6, 23

XIV. INFORMATION, EDUCATION, RESEARCH, PUBLIC AWAREENESS

1. Promotion of public environmental awareness.

Cameroon: 10, 15, 72, 74
 Cape Verde: 3, 4, 22, 23, 42

Comores: 16
Egypt: 5
Gabon: 4
Ghana: 2, 17
Guinea: 7, 14
Libya: 7
Madagascar: 8; Annex, Title II
Mauritius: 51
Nigeria: 5
The Gambia: 10, 19, 20, 48, 49
Togo: 7
Uganda: 3, 16, 17, 87
Zambia: 6, 76

2. Public access to information.

Algeria: 19, 26, 128
Cameroon: 7(1), 7(2), 72
Cape Verde: 2-4, 22, 34, 40
Egypt: 5
Gabon: 4
Madagascar: 4; Annex, Title II, III, VI
Mauritius: 6
South Africa: 32
The Gambia: 48
Togo: 7, 15, 21, 70, 85
Uganda: 18, 19, 86, 87

3. Confidentiality.

Algeria: 86, 115
Burkina Faso: 93
Cameroon: 10
Mauritius: 72
Senegal: 14, 50, 58
Seychelles: 38
Togo: 90
Uganda: 86
Zambia: 12, 87

4. Environmental education in the school system.

Cameroon: 72, 73
Cape Verde: 4
Egypt: 5
Ghana: 2
Madagascar: Annex, Title II, III, VI
Mauritius: 51
The Gambia: 50
Tunisia: 3
Uganda: 88

5. Professional/vocational environmental training.

Cameroon: 72, 73

6. Awards for environmental protection achievements.

Cameroon: 10, 72

7. Conduct of research/expert assistance.

Algeria: 10, 11, 14
Cameroon: 10, 72
Cape Verde: 4, 23
Comores: 42, 43
Congo: 20
Egypt: 6, 24
Gabon: 4, 25, 28
Ghana: 2, 17
Guinea: 19, 50
Libya: 7
Madagascar: Annex, Title II, V, VI
Mauritius: 6
Nigeria: 4
Seychelles: 4
The Gambia: 10
Togo: 7, 15, 17, 41
Tunisia: 3, 10
Uganda: 84
Zambia: 6, 23

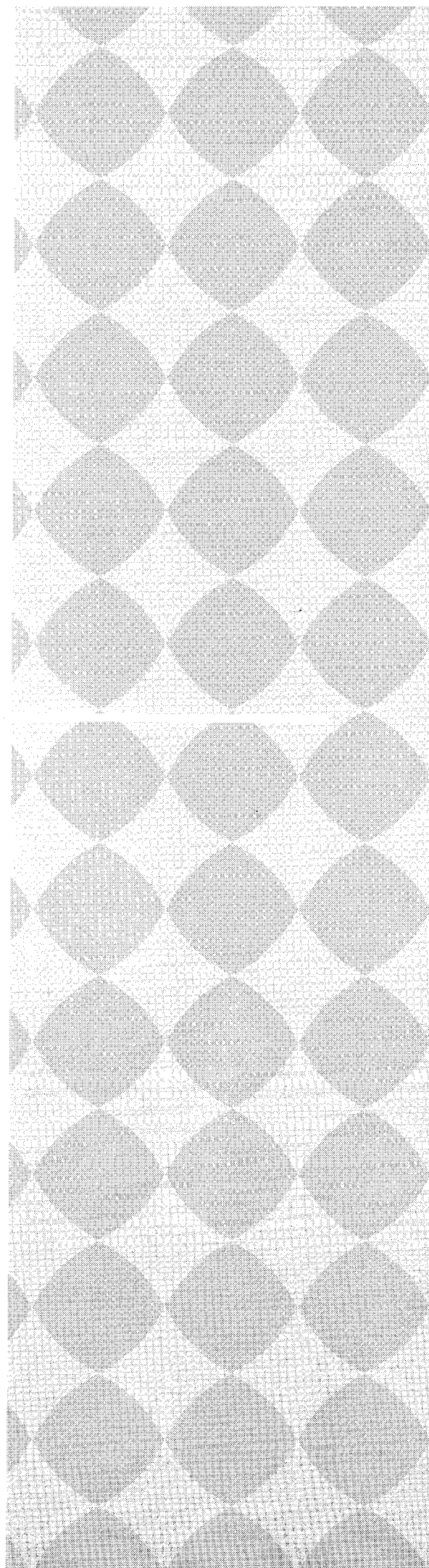
XV. POWER TO ENACT RULES, REGULATIONS, ADDITIONAL LAWS.

Algeria: 9, 11, 14, 16, 18, 19, 21, 49
Burkina Faso: 26, 27, 43, 47, 50, 51, 58, 68, 71, 75, 77, 96
Cameroon: 65, 66, 97
Cape Verde: 10, 15, 16, 20, 23, 26, 29, 35, 42, 48, 51
Comores: 36, 40, 41, 43, 47, 53, 72
Congo: 9, 25, 46, 52, 65, 89
Egypt: Preamble 2; 28-31, 34, 35, 37, 38, 40, 43, 58, 71, 73, 74
Gabon: 5, 8, 12, 21, 23, 25, 33, 61, 93, 94
Ghana: 28
Guinea: 8, 11, 17, 19, 38, 50, 51, 56, 76, 81, 86, 88
Libya: 5, 34, 43, 48, 50, 62-64
Madagascar: 1; Annex, Title II
Mali: 21
Mauritius: 26, 31, 37, 43, 50, 56, 73, 74
Nigeria: 37
Senegal: 4, 7, 9, 11, 13, 18, 31, 34, 49, 55, 57
Seychelles: 7-11, 13, 26, 35, 40
South Africa: 20, 24-28
The Gambia: 30, 63
Togo: 4, 9, 32, 35-37, 41, 43, 51, 61, 65, 74
Tunisia: 1, 8-10
Uganda: 108
Zambia: 34, 46, 55, 63, 96

.

APPENDIX TWO

Index to Environmental Impact
Assessment (EIA)
Regulations of African Countries



HOW TO USE THE EIA LAWS AND REGULATIONS INDEX:

This "Index of provisions of EIA laws and regulations of African countries" is organized by subject; as a result of various inputs from consultations held in 1995 at the time the global framework law and EIA indexes were to be developed at the UNEP's Environmental Law Centre.

An easy way to find a subject of particular interest to anyone is to look at the list of index titles following this section. Then, look at the full index of EIA laws and regulations.

Under each title of the Index appears the names of the countries, classified in alphabetical order. Each country name is eventually followed by a number or numbers which represent articles or sections of their laws on specific subjects.

For example, one of the subject headings is "Institutions responsible for EIA." The index reads:

Institutions responsible for EIA:

Algeria: 131; DECR 3, 5-7, 13

This means that article or section 131 of the Algeria framework law deals with institutions responsible for EIA, etc. and that Algeria's Decree on EIA deals with the same subject: "Institutions responsible for EIA" at particular references indicated DECR 3, 5-7, 13. This index follows the texts of the laws as put together in the Compendium of framework laws and EIA Regulations of African countries, so you can then read section 131 of the Algerian law, etc.

The Authors

INDEX

I. TITLE, APPLICATION, COMMENCEMENT

Algeria: 130; EIA Decree, 1990 (DECR): 1, 15
Burkina Faso: 4
Cape Verde: 4(f), 27(h)
Comoros: 11,12
Congo EIA Decree, 1986 (DECR): 14, 15
Cote d'Ivoire: 25,40
Egypt: Annex 2 and 3 to the Executive Regulations of Law No4 for 1994
Gabon: 67, 69
Gambia: 22(5)
Guinea: 82
Madagascar: EIA Decree,1992:1.2
Malawi:24
Mauritius:13, First Schedule(Section2)
Namibia: Environmental Assessment Policy, 1994 (EIA): Preamble
Seychelles:15
South Africa: 22,23
Togo:22
Tunisia: Impact Assessment Decree, 1991 (DECR): 15

II. DEFINITIONS.

Algeria: 130
Cote d'Ivoire: 1
Egypt: 1(36)
Gabon: 68
Gambia: 2
Mauritius:14
South Africa: 1
Tunisia DECR: 1, 14
Uganda:2

III. INSTITUTIONS RESPONSIBLE FOR ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

1. At national level.

Algeria: 131; DECR 3, 5-7, 13
Burkina Faso: 4, 89
Cape Verde: 30
Congo DECR: 9
Cote d'Ivoire: 42,43.
Egypt: 19
Gabon: 70, 71
Gambia: 22
Guinea: 47, 82, 83
Libya: 50(b)
Madagascar: 8; EIA Decree,1992:3
Malawi:24,25
Mauritius: 13, 16,18
Namibia EIA: 6, 6.1, 6.2, Appendix A, 1 (A-1)
Senegal: 5
Seychelles: 15

South Africa: 21, 22
 Togo: 22, 23, 26, 70
 Tunisia: 5; DECR 1, 2, 15
 Uganda: 20
 Zambia: 6

2. At provincial/municipal/local levels.

Cape Verde: 30

IV. REQUIREMENT FOR EIA

1. Requirement for study/report.

Algeria: 131; DECR 2, 4
 Burkina Faso: 6, 15, 72, 74
 Cape Verde: 30
 Comores: 11, 14
 Congo: 2, 41; DECR 1
 Cote d'Ivoire: 40.
 Gabon: 49, 63, 67
 Gambia: 22
 Guinea: 47, 82
 Madagascar: 10; Annex, Title II.; EIA Decree, 1992:1,4
 Mauritius: 13
 Nigeria: Decree:2
 Senegal: 5
 Seychelles: 15
 South Africa: 22
 Togo: 22, 70
 Tunisia: 5; DECR 1, 2, 8
 Uganda: 20(3)
 Zambia: 6

2. Exemptions.

Algeria: 131; Annex 3
 Congo DECR: 5
 Mauritius: 23
 Seychelles: 15
 Tunisia DECR: 7

V. WHO MUST SUBMIT EIA STUDY/REPORT

1. Private parties.

Algeria DECR: 5
 Burkina Faso: 10, 15
 Cape Verde: 30
 Gabon: 67
 Gambia: 22, 23
 Ghana: 12
 Guinea: 82
 Madagascar: 10, EIA Decree, 1992:5
 Namibia EIA: 5
 Nigeria: Decree:2
 Seychelles: 15

South Africa: 22
Tunisia DECR: 1

A. Government assistance in preparing EIA study/report.

Nigeria: Decree:6, 10

B. Government may carry EIA in addition to private party.
2. Government agencies.

Burkina Faso: 74
Cape Verde: 30
Gabon: 67
Guinea: 82
Madagascar: 10
Namibia EIA: 5

3. Environmental impact assessments by other entities.

VI. ACTIVITIES/PROJECTS SUBJECT TO EIA

1. General.

Algeria: 131; DECR 2
Burkina Faso: 5, 6
Comores: 12
Congo: 2, 41; DECR 1, 6
Cote d'Ivoire: 25,40.
Gabon: 63, 67
Gambia: Sched Part A
Ghana: 12, 28
Guinea: 82
Madagascar: 10, EIA Decree,1992:art1,art2
Namibia EIA: 1, 2, Appendix B (App. B)
Nigeria: Decree:14
Seychelles: 15
South Africa: 21
Togo: 22
Tunisia: 5; DECR 1, 4, Annex 1, 2

2. Activities/projects in existence at time of enactment of EIA law; modification or expansion of activities/projects.

Comores: 69
Congo: 47
Egypt: 23
Gambia: 26
Madagascar: EIA Decree,1992:30
Tunisia DECR: 14

3. New activities/projects.

Agriculture:

Congo DECR: Annex 1
Gabon: 67
Gambia: Sched Part A

Madagascar: EIA Decree,1992: Annex1:16
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
South Africa: 21
Tunisia: 5; DECR 1, 14, Annex 1, 2

Animal husbandry:

Madagascar: EIA Decree,1992: Annex7:16
Mauritius: Sched 1
Tunisia DECR: Annex 2

Areas to be protected under international conventions:

Asbestos:

Mauritius: Sched 1

Broadcasting stations:

Namibia EIA: App. B

Cement, concrete, stone:

Gambia: Sched, Part A
Madagascar: EIA Decree,1992: Annex1:1
Mauritius: Sched 1
Tunisia DECR: Annex 1

Cemeteries:

Charcoal/coke:

Chemicals:

Congo DECR: Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:16
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
South Africa: 21
Tunisia DECR: Annex 1, 2

Coastal development projects:

Mauritius: Sched 1

Construction, general:

Cote d'Ivoire: 25
Guinea: 47
Mauritius: Sched 1
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1, 2

Drainage and irrigation; dams:

Cote d'Ivoire: 25
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13

Dredging:

Drought relief:

Namibia EIA: App. B

Drugs and pharmaceuticals:

Environmental standards, setting of:

Fertilizers:

Congo DECR: Annex 1
Gambia: Sched, Part A

Fisheries:

Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:10
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1, 2

Food industry:

Gambia: Sched Part A
Mauritius: Sched 1
Tunisia DECR: Annex 2

Forestry:

Burkina Faso: 6
Congo DECR: Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:7
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1

Fossil fuel extraction:

Madagascar: EIA Decree,1992: Annex1:2
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 2

Genetic organisms:

Namibia EIA: App. B

Government public works:

Madagascar: EIA Decree,1992: Annex1:15
Nigeria: Decree:Schedule Section 13

Hazardous substances:

Gambia: Sched Part A
Madagascar: EIA Decree, 1992: Annex 1:21
Mauritius: Sched 1
Namibia EIA: App. B

Hospitals:

Madagascar: EIA Decree, 1992: Annex 1:15
Nigeria: Decree: Schedule Section 13

Housing developments/projects:

Congo DECR: Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree, 1992: Annex 1:15
Namibia EIA: App. B
Nigeria: Decree: Schedule Section 13

Industry, general:

Gabon: 67
Gambia: Sched Part A
Madagascar: EIA Decree, 1992: Annex 1:11
Namibia EIA: App. B
Nigeria: Decree: Schedule Section 13
South Africa: 21
Tunisia: 5; DECR 1, 14, Annex 1

Infrastructure:

Cote d'Ivoire: 25
Madagascar: EIA Decree, 1992: Annex 1:20
Nigeria: Decree: Schedule Section 13

Iron and steel:

Gambia: Sched, Part A
Madagascar: EIA Decree, 1992: Annex 1:4
Nigeria: Decree: Schedule Section 13
Tunisia DECR: Annex 1, 2

Land Reclamation:

Gambia: Sched Part A
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree: Schedule Section 13
Tunisia DECR: Annex 2

Landscape modification:

Madagascar: EIA Decree, 1992: Annex 1:14
Mauritius: Sched 1
South Africa: 21
Tunisia DECR: Annex 1

Liquor/breweries/distilleries:

Gambia: Sched, Part A
Mauritius: Sched 1
Tunisia DECR: Annex 2

Metallurgy:

Madagascar: EIA Decree,1992: Annex1:4

Microbiology industry:

Military activities, installations and weapons:

Algeria DECR: 13
Madagascar: EIA Decree,1992: Annex1:14
Namibia EIA: App. B

Mining/mineral resources:

Congo Decree: Annex 1
Gabon: 67
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1, 2

National parks:

Burkina Faso: 6
Madagascar: EIA Decree,1992: Annex1:13
Mauritius: Sched 1
Namibia EIA: App. B
Tunisia DECR: 11

Natural gas:

Madagascar: EIA Decree,1992: Annex1:2
Gambia: Sched Part A
Tunisia DECR: Annex 1, 2

Natural resources; activity causing damage, waste.

Madagascar: EIA Decree,1992: Annex1:18
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13

Nuclear power/ radioactivity:

Congo DECR: Annex 1
Madagascar: EIA Decree,1992: Annex1:19
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13

Oil and Petroleum:

Congo DECR: Annex 1

Gambia: Sched Part A
Madagascar: EIA Decree, 1992: Annex 1:2
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree: Schedule Section 13
Tunisia DECR: Annex 1, 2

Pesticides:

Congo DECR: Annex 1
Gambia: Sched, Part A
Madagascar: EIA Decree, 1992: Annex 1:3
Mauritius: Sched 1
Namibia EIA: App. B
Tunisia DECR: Annex 1

Pipelines:

Congo DECR: Annex 1
Gambia: Sched Part A
Namibia EIA: App. B
Tunisia DECR: Annex 1

Plans, national and local:

Congo DECR: Annex 1
Guinea: 82
Mauritius: Sched 1
Namibia EIA: App. B

Plant and animal species, new:

Namibia EIA: App. B

Population growth:

Madagascar: EIA Decree, 1992: Annex 1:22
Namibia EIA: App. B

Ports:

Congo DECR: Annex 1
Madagascar: EIA Decree, 1992: Annex 1:20
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree: Schedule Section 13
Tunisia DECR: Annex 1

Power generation and transmission:

Congo DECR: Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree, 1992: Annex 1:19
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree: Schedule Section 13
South Africa: 21
Tunisia DECR: Annex 1, 2

Quarries:

Burkina Faso: 72
Congo DECR: Annex 1
Madagascar: EIA Decree,1992: Annex1:1
Mauritius: Sched 1
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1

Refrigeration plants:

Madagascar: EIA Decree,1992: Annex1:7
Mauritius: Sched 1

Resort and recreational development/tourism:

Congo DECR: Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:14
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
South Africa: 21
Tunisia DECR: Annex 1

Sawmills:

Madagascar: EIA Decree,1992: Annex1:17
Mauritius: Sched 1
Tunisia DECR: Annex 2

Shopping centers:

Slaughterhouses:

Madagascar: EIA Decree,1992: Annex1:7,16
Tunisia DECR: Annex 2

Smelting:

Special Areas:

Burkina Faso: 6
Gambia: Sched, Part A
Madagascar: EIA Decree,1992: Annex1:13
Namibia EIA: App. B
Tunisia DECR: 11

Sugar industry and refineries:

Mauritius: Sched 1
Tunisia DECR: Annex 1

Textiles, wood, leather, paper, rubber, glass, paint:

Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:8
Mauritius: Sched 1
Namibia EIA: App. B

Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1, 2

Transboundary activities:

Namibia EIA: App.B
Nigeria: Decree:Schedule Section 13

Transportation:

Airports:

Congo DECR: Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:20
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1, 2

Highways and roads:

Congo DECR: Annex 1
Cote d'Ivoire: 25
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:20
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1, 2

Railways:

Congo DECR: Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:20
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1, 2

Miscellaneous:

Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:20
Namibia EIA: App. B
South Africa: 21
Tunisia DECR: Annex 2

Urban development projects:

Comores: 11
Congo: 41; DECR Annex 1
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:15
Mauritius: Sched 1
Nigeria: Decree:Schedule Section 13
Tunisia DECR: Annex 1

Vehicle production and repair:

The Gambia: Sched Part A
Tunisia DECR: Annex 2

Waste treatment and disposal:

Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:18
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
South Africa: 21
Tunisia DECR: Annex 1

Water control/supply:

Burkina Faso: 6, 72
Comores: 69
Congo: 41; DECR Annex 1
Cote d'Ivoire: 25
Gambia: Sched Part A
Madagascar: EIA Decree,1992: Annex1:12
Mauritius: Sched 1
Namibia EIA: App. B
Nigeria: Decree:Schedule Section 13
South Africa: 21
Tunisia DECR: Annex 1, 2

4. Periodic EIA of operating facilities.

Madagascar: EIA Decree,1992: Art.33

VII. PROHIBITION AGAINST CARRYING OUT PROJECT WITHOUT EIA STUDY/REPORT SUBMISSION AND APPROVAL; PENALTIES AND DAMAGES/SUSPENSION OF PROJECT PENDING COMPLETION OF EIA PROCEDURE

Algeria: 132
Cape Verde: 30
Comores: 76
Congo: 68; DECR 11
Cote d'Ivoire: 90
Gabon: 70
Gambia: 22, 53
Ghana: 12
Madagascar: EIA Decree,1992: Art.27
Mauritius: 13
Namibia EIA: A-11
Senegal: 5
Seychelles: 15
South Africa: 22
Togo: 22, 29
Tunisia: 5; DECR 2, 3

VIII. REQUIREMENT OF ADDITIONAL LICENSES/PERMITS

Gambia: 22

Madagascar: 10; EIA Decree,1992: Art.22
Mauritius: 13

IX. THE EIA STUDY/REPORT

1. Notification.

Algeria DECR: 6
Namibia EIA: A-1, A-2, A-3

2. Preparation and review of preliminary study/report.

Namibia EIA: 6.1, A-4, A-6
Tunisia DECR: 5

3. Preparation of full study/report.

A. General.

Congo DECR: 1
Cote d'Ivoire: 40
Madagascar: 10; EIA Decree,1992: Art.5
Namibia EIA: A-5

B. EIA study/report to be prepared by qualified person; certification of EIA preparers.

Burkina Faso: 1
Congo DECR: 1
Togo: 30

C. Selection of preparer.

D. EIA preparation costs/fees.

Congo DECR: 2
Cote d'Ivoire: 42
Madagascar: 10; EIA Decree,1992: Art.5
Namibia EIA: 2, 4, 9, A-7
Togo: 32
Tunisia DECR: 9

E. Participation of public/other agencies/other interested parties.

Burkina Faso: 6
Mauritius: 15
Namibia EIA: 2, A-3, A-4, A-5
Togo: 31

4. Content of EIA study/report.

A. General.

Algeria: 131; DECR 5
Cape Verde: 31
Comores: 14
Congo: 41; DECR 1, 3, 9
Cote d'Ivoire: 41

Gambia: 22, 23
Ghana: 12
Guinea: 83
Madagascar: 10; EIA Decree, 1992: Art.5
Mauritius: 14
Namibia EIA: A-3, A-5
South Africa: 22, 26
Togo: 24, 26
Tunisia DECR: 2, 9

B. Forms, checklists required.

Comores: 14
Congo DECR: 6
Namibia EIA: A-5
Tunisia DECR: 10

C. Information about initial environmental condition of site.

Algeria DECR: 5
Burkina Faso: 7
Cape Verde: 31
Comores: 12
Congo DECR: 4, Annex II
Cote d'Ivoire: 41
Guinea: 83
Madagascar: 10; EIA Decree, 1992: Art.5
Seychelles: 15
Togo: 24
Tunisia DECR: 9

D. Description of proposed activity/project.

Algeria: 131; DECR 5
Burkina Faso: 7
Cape Verde: 31
Comores: 12
Congo DECR: 4, Annex II
Cote d'Ivoire: 41
Gambia: 22, 23
Madagascar: 10; EIA Decree, 1992: Art.5
Mauritius: 14
Seychelles: 15
South Africa: 2
Togo: 24
Tunisia DECR: 5, 9

E. Environmental consequences/impacts of activity/project.

Algeria DECR: 5
Burkina Faso: 7
Cape Verde: 31
Comores: 12
Congo: 41; DECR 1, 3, 4, Annex II Cote d'Ivoire: 41
Gambia: 22, 23
Guinea: 83
Madagascar: 10; EIA Decree, 1992: Art.5
Mauritius: 14

Namibia EIA: 2, A-5
 Seychelles: 15
 South Africa: 26
 Togo: 24, 25
 Tunisia DECR: 5, 9

F. Effects on other countries.

Cote d'Ivoire: 41
 Burkina Faso: 7
 Gambia: 23
 Nigeria: Decree:49,50,56

G. Proposed measures for eliminating/reducing/correcting environmental consequences or impacts.

Algeria DECR: 5
 Burkina Faso: 7
 Cape Verde: 31
 Congo: 41; DECR 4
 Comores: 12
 Cote d'Ivoire: 41
 Gambia: 23
 Guinea: 83
 Madagascar: 10; EIA Decree,1992: Art.5
 Mauritius: 14
 Namibia EIA: 2, 3
 Seychelles: 15
 South Africa: 26
 Togo: 24
 Tunisia DECR: 5, 9

H. Possible alternate sites or plans for activity/project.

Burkina Faso: 7
 Comores: 12
 Congo DECR: 4
 Cote d'Ivoire: 41
 Gambia: 23
 Guinea: 83
 Mauritius: 13
 Namibia EIA: A-3
 Seychelles: 15
 South Africa: 22, 26
 Togo: 25
 Tunisia DECR: 9

I. Proposed monitoring program.

Cote d'Ivoire: 40
 Madagascar: 10; EIA Decree,1992: Art.7,17
 Namibia EIA: 5, A-5
 Seychelles: 15
 South Africa: 26

5. Time period for submission.

Congo DECR: 3, 6
 Cote d'Ivoire: 64

Madagascar: EIA Decree, 1992: Art.5,14
Togo: 26

6. Confidentiality of information.

Gambia: 23
Madagascar: EIA Decree, 1992: Art.14
Namibia EIA: 8, A-5

7. EIA costs/fees.

Cote d'Ivoire: 42
Madagascar: EIA Decree, 1992: Art.5,9

X. REVIEW OF EIA STUDY / REVIEW OF REPORT

General.

Burkina Faso: 10
Cape Verde: 30
Comores: 14
Cote d'Ivoire: 40,42
Gabon: 67, 69
Gambia: 24
Madagascar: EIA Decree, 1992: Art.17
Mauritius: 16
Senegal: 9

Togo: 23

2. Time limits.

Cote d'Ivoire: 64
Madagascar: EIA Decree, 1992: Art.14
Tunisia DECR: 6, 12

3. Factors to be considered in evaluation.

A. General.

Algeria DECR: 2, 5
Burkina Faso: 7
Congo DECR: Annex II
Cote d'Ivoire: 22
Gabon: 68, 70
Gambia: Sched Part B
Madagascar: EIA Decree, 1992: Art.2
Mauritius: 19
Namibia EIA: A-3
Seychelles: 15
Togo: 25
Tunisia DECR: 9

B. Effect on ecological balance; biological diversity.

Algeria DECR: 5
Congo DECR: Annex II

Cote d'Ivoire: 41
Gabon: 68
Gambia: Sched Part B
Madagascar: EIA Decree, 1992: Art.2
Namibia EIA: Preamble

Tunisia DECR: 9

C. Effect on ecosystem maintenance.

Congo DECR: Annex II
Cote d'Ivoire: 41
Gambia: Sched Part B
Madagascar: EIA Decree, 1992: Art.2

D. Effect on health.

Algeria DECR: 2, 5
Congo DECR: Annex II
Gabon: 68
Gambia: Sched Part B
Madagascar: EIA Decree, 1992: Art.2
Togo: 24
Tunisia DECR: 9

E. Effect on surrounding land use.

Gambia: Sched, Part B
Madagascar: EIA Decree, 1992: Art.2
Namibia EIA: A-5

F. Effect on climate, land, water, air, atmosphere flora, wildlife.

Algeria DECR: 2, 5
Congo DECR: Annex II
Gambia: Sched Part B
Madagascar: EIA Decree, 1992: Art.2
Seychelles: 15
South Africa: 26
Tunisia DECR: 9

G. Effect on human settlements.

Algeria DECR: 2, 5
Congo DECR: Annex II
Gambia: Sched Part B
Madagascar: EIA Decree, 1992: Art.2
Namibia EIA: A-5

Tunisia DECR: 9

H. Effect on socio-economic aspects.

Congo DECR: Annex II
Cote d'Ivoire: 41
Gambia: Sched Part B
Madagascar: EIA Decree, 1992: Art.5
Namibia EIA: Preamble, 2, A-3

South Africa: 26

Togo: 25

I. Effect on protected areas/historical sites.

Algeria DECR: 2

Congo DECR: Annex II

Cote d'Ivoire: 55

Gambia: Sched Part B

Madagascar: EIA Decree,1992: Art.5

J. Effect on landscape and scenic areas.

Algeria DECR: 2

Gambia: Sched Part B

Madagascar: EIA Decree,1992: Art.5

K. Other effects.

Algeria DECR: 2

Congo DECR: Annex II

Madagascar: EIA Decree,1992: Art.5

Tunisia DECR: 9

L. Extent, duration, intensity of environmental impact.

Madagascar: EIA Decree,1992: Art.5

Tunisia DECR: 9

4. Requests for additional information.

Algeria DECR: 14

Congo DECR: 8, 10

Gambia: 24

Madagascar: EIA Decree,1992: Art.20

Mauritius: 16, 18

Namibia EIA: A-6

Togo: 26

5. Expert advice.

Madagascar: EIA Decree,1992: Art.13,15,26

Mauritius: 16, 18

Namibia EIA: 6.2, A-5

Togo: 23, 30

XI. PUBLIC PARTICIPATION

1. Access to information.

Algeria DECR: 8-10

Burkina Faso: 8

Comores: 14

Congo: 41

Gabon: 69

Gambia: 23, 24

Madagascar: EIA Decree,1992: Art.10,11,16

Mauritius: 15

Namibia EIA: 8, A-9

Seychelles: 15

2. Public hearing.

Algeria DECR: 12

Congo: 41

Gambia: 24

Madagascar: EIA Decree,1992: Art.11,12,13,14,15,20

XII. DECISION ON EIA

1. General

Algeria DECR: 6

Burkina Faso: 9

Cape Verde: 30

Comores: 69

Cote d'Ivoire: 43

Egypt: 20, 21

Gabon: 49

Madagascar: EIA Decree,1992: Art.23,34

Mauritius: 18, 19

Namibia EIA: A-6

Nigeria: Decree:26,31,40

Togo: 27, 28

Tunisia DECR: 1, 6

2. Time limit.

Burkina Faso: 8

Congo DECR: 6

Cote d'Ivoire: 64

Egypt: 20

Gambia: 24

Madagascar: EIA Decree,1992: Art.34

Tunisia DECR: 6

3. Approval without conditions.

Algeria DECR: 14

Gambia: 22, 24

Madagascar: EIA Decree,1992: Art.21,34

South Africa: 22

A. Failure to issue decision results in approval.

Egypt: 20

Madagascar: EIA Decree,1992: Art.21,34

Tunisia DECR: 6, 11, 12

B. Failure to issue decision results in disapproval.

4. Approval with conditions/requirement for revision of plans/ redesign of project.

Algeria DECR: 14

Burkina Faso: 9

Comores: 13, 69

Egypt: 20

Gabon: 71
Gambia: 24
Mauritius: 18
Namibia EIA: A-8
Senegal: 9, 10
Seychelles: 15
South Africa: 22

5. Disapproval.

Algeria: 133; DECR 14
Burkina Faso: 10
Gambia: 24
Mauritius: 18
South Africa: 22

6. Resubmission after disapproval.

7. Retention of EIA documents and records.

Namibia EIA: 8, A-9

8. Review of Decision.

A. Appeal process.

Egypt: 21
Mauritius: 18, 49
Namibia EIA: 7, A-10
Seychelles: 15

B. Decision upon appeal.

9. Government immunity in EIA process.

Cote d'Ivoire: 4
Mauritius: 22

XIII. MONITORING.

1. Responsible authority.

Cote d'Ivoire: 42
Gambia: 25
Ghana: 2
Madagascar: EIA Decree, 1992: Art.25
Mauritius: 19
Namibia EIA: 9, A-8, A-12
South Africa: 22, 26

2. Monitoring procedure.

A. General.

Egypt: 22
Gambia: 25
Mauritius: 19
Namibia EIA: 9, A-12

Seychelles: 15
South Africa: 26

B. Requirement for insurance/guarantee.

C. Submission of plans, progress reports, alterations.

Egypt: 22
Mauritius: 19
Namibia EIA: A-13
The Gambia: 25

D. Expiration of approval if activity not started.

E. Transfer of EIA license to another person.

Congo: 41
Madagascar: EIA Decree, 1992: Art.24
Mauritius: 21

F. Requirement to amend project or submit new EIA due to changed environmental conditions, or change in activity.

Congo: 41
Egypt: 22
Madagascar: EIA Decree, 1992: Art.23
Mauritius: 19, 20
Tunisia DECR: 7, 14

G. Revocation of project approval/order to cease or suspend work on project.

Algeria: 132, 133
Comores: 76
Egypt: 22
Gabon: 71
Mauritius: 19
Seychelles: 15
South Africa: 22
Tunisia DECR: 13

H. Monitoring costs.

Cote d'Ivoire: 42
Namibia EIA: 9

XIV. SANCTIONS.

Algeria: 133
Comores: 76
Congo: 68; DECR 13
Cote d'Ivoire: 90
Gabon: 87
Guinea: 113
Madagascar: EIA Decree, 1992: Art.28,29
Mauritius: 13
Seychelles: 15
Tunisia DECR: 13

XV. POWER TO ENACT RULES, REGULATIONS, ADDITIONAL LAWS

Algeria: 131; DECR 3
Burkina Faso: 90
Cape Verde: 30
Comores: 14
Congo: 2; DECR 3, 4, 9
Cote d'Ivoire: 114
Egypt: 19, 21, 22
Gabon: 67, 69
Gambia: 22, 23
Guinea: 83
Madagascar: 10; EIA Decree, 1992: Art.35,37
Seychelles: 15
South Africa: 22
Togo: 22
Tunisia: 5; DECR 9

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

Tel: (254-2) 623815/623923/623853

Fax: (254-2) 623859