



REGIONAL SEAS

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***Assessment of the Implementation of the
Eastern African Action Plan and the
Effectiveness of its Legal Instruments***

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PREFACE

The Conference of the Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi, 17-21 June 1985) adopted the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region and signed the Convention and its two Protocols in 1985.

Only four countries have since ratified the Convention and its Protocols, which are still not in force.

Many activities under the Regional Action Plan cannot be implemented due to non-payment of contributions to the Eastern African Trust Fund by the contracting parties.

In the light of the above, the Secretariat (UNEP) commissioned a consultant to write a report on the Assessment of the Implementation of the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region and the Effectiveness of its Legal Instruments.

The tasks of the consultant described in the terms of reference were to:

- Identify causes and obstacles which hinder the effective implementation of the Action Plan, i.e. failure to take into account the actual and/or differentiated implementing capacity of the parties, poor implementing mechanisms provided for in the agreements, and inadequate negotiation processes;
- Assess the impact, if any, of the legal instruments on the whole region, and, in particular, on the legal systems of the individual States;
- Identify possible weaknesses of the legal instruments; and
- Propose appropriate measures and remedies to improve the effectiveness of the legal instruments considered.

In this report, the consultant has attempted to identify the possible obstacles hindering the effective implementation of the regional Action Plan and has made recommendations to improve the effectiveness of the legal instruments for the successful implementation of the regional programme.

The report was adopted with amendments by the First Meeting of National Focal Points on the Action Plan for the Eastern African Region held in Nairobi, 27-28 October 1992, for presentation to the forthcoming Intergovernmental Meeting on the Action Plan for the Eastern African Region for consideration.

CONTENTS

	<i>Page</i>
EXECUTIVE SUMMARY	1
1. INTRODUCTION.....	7
2. NEED FOR REGIONAL COOPERATION.....	7
3. THE EASTERN AFRICAN ACTION PLAN	8
4. EASTERN AFRICAN CONVENTION AND ITS PROTOCOLS	11
5. PROTOCOL CONCERNING PROTECTED AREAS AND WILD FAUNA AND FLORA IN THE EASTERN AFRICAN REGION	12
6. PROTOCOL CONCERNING COOPERATION IN COMBATING MARINE POLLUTION IN CASES OF EMERGENCY IN THE EASTERN AFRICAN REGION	13
7. STATUS OF THE CONVENTION AND ITS PROTOCOLS.....	14
8. BENEFITS OF RATIFICATION OF THE CONVENTION AND ITS PROTOCOLS	14
9. ADVANTAGES OF CONTRIBUTING TO THE EASTERN AFRICAN TRUST FUND	16
10. ROLE OF UNEP (OCA/PAC) AS THE INTERIM SECRETARIAT.....	16
11. COMMITMENTS OF THE CONTRACTING PARTIES	17
12. IMPORTANCE OF THE ROLE OF NATIONAL FOCAL POINTS	17
13. TRANSMITTING OF INFORMATION BY NATIONAL FOCAL POINTS	18
14. POSSIBLE WEAKNESSES OF THE CONVENTION AND ITS PROTOCOLS	19
15. GLOBAL CONVENTIONS	19
16. IMPACT OF THE CONVENTION AND ITS PROTOCOLS ON THE LEGAL SYSTEMS OF THE STATES	19
17. CONCLUSION	20
18. RECOMMENDATIONS	20
ANNEX I: ROLE OF UNEP (OCA/PAC) AS THE INTERIM SECRETARIAT OF THE EASTERN AFRICAN ACTION PLAN, CONVENTION AND ITS PROTOCOLS	23
ANNEX II: SUGGESTED METHOD OF COORDINATION BETWEEN THE NATIONAL FOCAL POINTS AND THE SECRETARIAT TO PROMOTE EFFECTIVE IMPLEMENTATION OF THE EASTERN AFRICAN ACTION PLAN, CONVENTION AND ITS PROTOCOLS	29
BIBLIOGRAPHY	31

LIST OF FIGURES

	Page
<i>Figure 1: The Eastern African Region</i>	6
<i>Figure 2: Illustration to show the exchange of information between the National Focal Points and the Secretariat (UNEP)</i>	18

EXECUTIVE SUMMARY

Introduction

The Eastern African Region has a beautiful coastline with rich natural marine resources, beaches of coral sand, vast mangrove forests, productive lagoons and beautiful islands. This beautiful area is, however, threatened by serious problems of coastal and marine pollution.

To combat the marine environmental problems of the Eastern African Region, the nine countries of the region, Comoros, France (Réunion), Kenya, Madagascar, Mauritius, Mozambique, Seychelles, Somalia, United Republic of Tanzania and the European Community, agreed to cooperate within the framework of the Eastern African Action Plan.

A number of preliminary steps taken by the Regional Seas Programme of the Oceans and Coastal Areas Programme Activity Centre (OCA/PAC) within UNEP towards the development of the Eastern African Action Plan led to the convening of a workshop of regional experts in Seychelles from 27-30 September 1982 to consider a draft action plan. The experts reviewed the environmental problems of the region, endorsed the Action Plan and defined the priority programme of activities to be implemented within the Regional Action Plan.

UNEP prepared first drafts of the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region and two Protocols: one concerning Protected Areas, Wild Fauna and Flora, and the second concerning Cooperation in Combating Marine Pollution in Cases of Emergency. Two successive meetings of experts from the countries concerned discussed, approved and recommended these drafts for consideration by the Conference of Plenipotentiaries, which adopted the regional Action Plan and signed the Convention and its two Protocols in Nairobi in 1985.

Need for Cooperation

Since marine and coastal environmental problems neither start nor end at national boundaries and since the countries of the region share common interests and a common sea, it is natural that they should agree to pool their resources to approach and tackle the common threats to their marine environment on a regional basis.

Due to the fact that a major oil tanker route passes through the region and that there is always the threat of a major oil spill, the countries of the region would benefit from regional cooperation since they cannot tackle such threats on an individual basis.

Eastern African Action Plan

The Eastern African Action Plan is intended to provide a framework for regional cooperation to conserve and develop the natural marine resources and to combat coastal and marine pollution problems in the region. The Action Plan has the following five main components:

Environmental assessment

Through this, the Action Plan assesses the regional capabilities and the main factors influencing environmental quality and encourages collaboration among the States of the region for the purpose of coordinating a marine pollution monitoring system.

Environmental management

This helps the States to prepare for pollution emergencies and cooperate in implementing existing measures to reduce and control pollution, and manage and develop marine resources.

Environmental legislation

A firm legal commitment on cooperation is provided in the form of the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region and its two Protocols. Harmonization of national laws and regulations on the protection and development of marine and coastal resources, whenever regional uniformity is required, and a compilation of national laws concerning

Institutional and financial arrangements

The agreed programme of activities under the Action Plan is primarily executed through national institutions. A Regional Coordinating Unit (RCU), however, has yet to be established to oversee and coordinate the implementation of the Action Plan, when the Convention comes into force.

When adopting the Action Plan, the Governments of the States of the region requested UNEP to act as the Interim Secretariat of the Action Plan and the Convention until the Regional Coordinating Unit is established.

UNEP, in cooperation with the relevant United Nations agencies and other organizations, has so far been providing the catalytic financing for the regional programme. However, when the Convention comes into force, the Governments of the region will assume financial responsibility through the Eastern African Trust Fund, with support from the Environment Fund and resources of UN specialized agencies and international organizations. The Eastern African Trust Fund has already been created, but contributions to it are not regular and it is therefore insufficient to finance the activities under the Action Plan.

Supporting measures

These are provided in the form of assistance in education and training, public awareness programmes and expert advice to improve the ability of national institutions to implement the Action Plan successfully.

All the components of the Action Plan are interdependent and each activity is intended to assist the Governments of the region to strengthen the process of formulating sound environmental management policies.

Eastern African Convention and its Protocols

Whereas the Eastern African Action Plan consists of coordinated arrangements to strengthen cooperation among the States of the region, the Convention and its Protocols are intended to be legal obligations to which these States are bound and they provide a legal commitment to activities under the Action Plan.

The Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African region provides that the contracting parties shall take the following appropriate measures:

- Prevent, reduce and combat marine pollution;
- Ensure sound environmental management of natural resources;
- Protect and preserve rare or fragile ecosystems;
- Cooperate in responding to oil pollution emergencies;
- Develop procedures for dissemination of information and consultation among the parties so as to strengthen cooperation;
- Hold ordinary meetings once every two years to review implementation of the Convention; and
- Transmit to the Secretariat information on the measures adopted by them for the implementation of the Convention and Protocols.

The Protocol concerning Protected Areas, Wild Fauna and Flora provides for cooperation in protecting the threatened and endangered species of flora and fauna and important national habitats in the Eastern African Region. It regulates the harvest and sale of threatened or depleted species of wild fauna, prohibits their capture or killing in certain circumstances, and provides for the establishment of protected areas, as necessary, to safeguard natural resources and important ecosystems.

The Protocol concerning Cooperation in Combating Marine Pollution in Cases of Emergency provides for cooperation in protecting the marine and coastal environment of the Eastern African Region through development of national contingency plans and a regional contingency plan.

Status of the Convention and Protocols

Since the Conference of Plenipotentiaries adopted the Eastern African Action Plan and the Convention and its Protocols in 1985, only four countries have ratified the Convention and its two Protocols, namely, France (Réunion), Kenya, Seychelles and Somalia. The Convention and its Protocols come into force on the sixth ratification. Two more ratifications are, therefore, needed before they come into force.

Benefits of Ratification of the Convention and Protocols

The Action Plan consists of numerous projects and activities from which the countries of the region could benefit if it was implemented effectively. However, considerable funds are needed and, until the Convention comes into force, contributions to the Trust Fund will not be regularly forthcoming. It is therefore, very important that the countries of the region ratify the Convention as early as possible.

To date, five priority projects have been earmarked for implementation to strengthen cooperation among the States:

- Protection and management of the marine and coastal areas (EAF/5);
- Assessment and control of pollution in the marine and coastal environment (EAF/6);
- Contingency planning for marine pollution emergencies (EAF/7);
- Coastal erosion and siltation (EAF/10); and
- Environmental impact assessment (EAF/11).

In addition to the benefits from these specific projects, the Convention and the Protocols themselves have a very effective mechanism for cooperation which saves a lot of effort and money on the part of individual States parties to the Convention and its Protocols. The mechanism provides for:

- Sharing of information concerning scientific research and data relevant to conservation, development and management of natural resources and the marine environment;
- Sharing of scientific and technical information and methodologies used in environmental impact assessment and coastal zone management;
- Exchange of experts; and
- Transfer of equipment from one country in the region to another to combat marine pollution emergencies.

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