



# **UNEP-GEF WIO-LaB PROJECT**

## ***ADDRESSING LAND BASED ACTIVITIES IN THE WESTERN INDIAN OCEAN***

### **REGIONAL TASK FORCE ON ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

The Report of the Inception Meeting

**Maputo, MOZAMBIQUE, 25- 26 July 2006**

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## EXECUTIVE SUMMARY

The inception meeting of the Environmental Impact Assessment (EIA) Regional Task Force was held in Maputo, Mozambique in the period between 24<sup>th</sup> and 26<sup>th</sup> July 2006. The meeting was attended by 20 participants representing national agencies/institutions responsible for coordination and enforcement of environmental impact assessment regulations in the Western Indian Ocean region. The meeting was officially opened by Mr. Policarpo Napica, the National Director in-charge of Environmental Management in the Ministry for Coordination of Environmental Affairs (MICOA) in Mozambique.

The main goal of the meeting was to initiate and agree on the workplan for implementation of the EIA Component of the WIO-LaB Project, particularly in regard to the development of specific guidelines and processes for effective implementation of EIA (including Strategic Environmental Assessment [SEA]) in participating countries. Following detailed presentations by the representatives of participating countries, it emerged that most of the countries in the Western Indian Ocean (WIO) Region have in place elaborate legal and institutional mechanisms for EIA. However, in terms of implementation and monitoring, most of the countries have limited capacity and resources to facilitate effective implementation of EIA/SEA. There is also no mechanism in the WIO region for dealing with transboundary environmental impacts. In this regard, it was suggested that efforts be focused towards the establishment of regional mechanisms for dealing with transboundary environmental impacts as envisaged in the relevant articles of the UNEP/Nairobi Convention and its new land-based sources/activities (LBS/A) protocol.

The meeting reviewed and approved the Terms of Reference (ToR) of the Regional Task Force on Environmental Impact Assessment and agreed on a workplan for implementation of activities. The Task Force also reviewed the ToR of a Regional EIA Consultant who will facilitate the work of the Task Force. The Task Force was also briefed on the expected outcomes of this component of the WIO-LaB project, which will set the stage for implementation of targeted activities aimed at boosting the implementation of EIA/SEA in participating countries and in particular, improvement of processes for dealing with transboundary environmental impacts.

During the meeting, the Task Force was briefed on the provisions of the UNEP/Nairobi Convention related to EIA, including the provisions contained in the proposed land-based activities/sources protocol that is under preparation. The Regional EIA Consultant will be expected to work with the Legal Consultant in order to review the specific clauses on EIA that are contained in Article 13 of the UNEP/Nairobi Convention and the new LBS/A Protocol. Recommendations that would be made by the EIA and legal Consultant would be reviewed by both the Regional EIA and Legal and Technical Review Task Forces.

The key outcome of the meeting was establishment of an active network of EIA enforcers in the WIO Region with a clear vision of coming up with strategies and common EIA approaches for the Nairobi Convention region. This network will be facilitated through a Regional EIA Task Force whose Terms of Reference were discussed and approved by the delegates during the meeting.

The decisions and recommendations of the inception meeting of the Regional EIA Task Force are presented in the following section.

## RESUME

La réunion introductive du Groupe de travail régional sur l'Evaluation de l'impact environnemental (EIE) a eu lieu à Maputo au Mozambique du 24 au 26 juillet 2006. Y ont assisté 20 représentants d'agences/institutions nationales responsables de la coordination et de la mise en application de la réglementation relative à l'Evaluation de l'impact environnemental dans la région de l'océan Indien occidental (OIO). La réunion a été officiellement ouverte par M. Policarpo Napica, le Directeur national chargé de la gestion environnementale auprès du Ministère de l'Environnement (MICOA) au Mozambique.

L'objectif majeur de cette réunion était d'établir et d'approuver un plan de travail pour la mise en œuvre de la composante EIE du Projet WIO-LaB et, en particulier, le développement de lignes directrices et processus spécifiques en vue d'une mise en œuvre efficace d'EIE (y compris l'Evaluation environnementale stratégique [EES]) dans les pays participants. Suite aux exposés détaillés des représentants des pays participants, il a été constaté que la plupart des pays de la région de l'océan Indien occidental ont des dispositifs juridiques et institutionnels bien établis en matière d'EIE. Cependant, en ce qui concerne la mise en œuvre et le suivi, la plupart des pays disposent de capacités et de ressources limitées en vue de faciliter une mise en œuvre efficace de l'EIE/EES. De plus, il n'existe aucun mécanisme régissant les impacts environnementaux transfrontaliers dans la région de l'OIO. A cet égard, il a été suggéré que les efforts doivent être concentrés sur l'établissement de mécanismes régionaux régissant les impacts environnementaux transfrontaliers comme envisagé dans les articles connexes de la Convention de Nairobi/PNUE et son nouveau Protocole sur les activités et sources de pollution terrestres (LBS/A).

La réunion a examiné et approuvé les Termes de référence (TdR) du Groupe de travail régional sur l'Evaluation de l'impact environnemental et s'est accordé sur un plan de travail pour la mise en œuvre des activités. Le Groupe de travail a également passé en revue les TdR d'un Consultant régional en EIE qui facilitera les opérations du Groupe de travail. Ce dernier a aussi été informé quant aux résultats escomptés pour cette composante du Projet WIO-LaB, qui préparera le terrain pour la mise en œuvre des activités ciblées qui visent à encourager la mise en œuvre de l'EIE/EES au sein des pays participants et, plus particulièrement, l'amélioration des processus de gestion des impacts environnementaux transfrontaliers.

Au cours de la réunion, le Groupe de travail a été instruit des dispositions de la Convention de Nairobi/PNUE liées à l'EIE et cela comprend les dispositions contenues dans le Protocole sur les activités et sources de pollution terrestres qui sont en cours de préparation. Il est prévu que le Consultant régional en EIE collabore avec le Consultant juridique afin d'examiner les clauses portant sur l'EIE qui sont reprises dans l'Article 13 de la Convention de Nairobi/PNUE et son nouveau Protocole LBS/A. Les recommandations qui seront émises par les deux consultants précités seront examinées par le Groupe de travail régional sur l'EIE et le Groupe de révision juridique et technique.

Le résultat essentiel obtenu lors de cette réunion consiste en l'établissement d'un réseau actif de participants qui sont chargés de la mise en application de l'EIE dans la région de l'OIO et qui ont une vision claire quant à l'établissement de stratégies et d'approches communes en matière d'EIE pour la Convention de Nairobi/PNUE. Les activités du réseau seront facilitées par le biais d'un Groupe de travail régional sur l'EIE dont les Termes de référence ont été abordés et approuvés par les délégués pendant la réunion. Les décisions et recommandations du Groupe de travail régional sur l'EIE dans le cadre de la réunion introductive sont présentées ci-après.

## DECISIONS AND RECOMMENDATIONS

The Inception meeting of the Environmental Impact Assessment Regional Task Force meeting was held in Maputo, Mozambique in the period 25th-26th July 2006. The meeting elected Madagascar as the Chair of the meeting and Mauritius as the Rapporteur and made the following decisions and recommendations.

1. The meeting took note of the key objectives of the Environmental Impact Assessment (EIA) component of the UNEP/WIO-LaB project and noted that the achievements of these objectives are in tandem with those of the UNEP/Nairobi Convention and the text of the proposed Land-based Sources/activities Protocol of the Convention, and called for full implementation of the convention and agreed activities as defined in the work plan adopted in 2004.
2. The delegates considered and endorsed, with amendments, the Terms of Reference of the EIA Regional Task Force established under the auspices of the UNEP/WIO-LaB Project/UNEP/Nairobi Convention and called for the WIO-LaB Project Management Unit to fully support and facilitate the operations of the Task Force in order to fulfill its assignments.
3. The delegates considered and endorsed, with amendments, the Terms of Reference of the Regional EIA Expert recruited by the UNEP/WIO-LaB Project and called the WIO-LaB Project Management Unit and the members of the EIA Regional Task Force to fully support and facilitate the work of the consultant in order to achieve the set objectives.
4. The meeting took note of the various EIA approaches and/or regulations that are applied by the Contracting Parties to the UNEP/Nairobi Convention and called for development of regional framework and mechanisms for dealing with transboundary environmental impact assessments in order to ensure better protection and management of the coastal and marine environment in the Western Indian Ocean (WIO) Region.
5. The meeting also recommended the development of common approaches for dealing with specific transboundary environmental impacts in the WIO Region.
6. The meeting emphasized the need for Nairobi Convention to further strengthen the partnership with other regional/international initiatives in the WIO such as IUCN, WWF, CLEAA etc with a view of establishing mechanisms for the implementation of sector specific Regional Strategic Environmental Assessment (SEA).
7. The meeting took note of the provisions of the UNEP/Nairobi Convention (including proposed text for a new Land-based Sources/Activities Protocol) regarding environmental impact assessment and recommended partnership/collaboration with other existing regional/international mechanisms such as IAIA, CLEAA, etc, in order to enhance sharing of information and experiences on the application of EIA in the WIO Region.
8. The delegates also took note of the draft questionnaire developed by the Regional Consultant for collection of information on the existing EIA policies, regulations and institutional frameworks in participating countries and agreed to provide the required information to the Regional EIA Consultant within the specified timeframe.
9. The meeting considered and approved the work plan for the implementation of the EIA Component of the WIO-LaB Project.
10. The meeting agreed that the issue of capacity building in EIA implementation is critical in the WIO region and needs to be taken into consideration in the future phase of the project. On the

basis of recommendations of the review of existing national EIA frameworks, the EIA Regional Task Force should make specific recommendations on targeted capacity-building activities.

The electronic versions of the decisions and recommendations of the meeting were distributed to all delegates following the closure of the meeting on Wednesday 26<sup>th</sup> July 2006.



## DECISIONS ET RECOMMANDATIONS

La réunion introductive du Groupe de travail régional sur l'Évaluation de l'impact environnemental s'est tenue à Maputo au Mozambique du 25 au 26 juillet 2006. La réunion a élu Madagascar en tant que Président de la réunion et Maurice en tant que Rapporteur. Elle a également émis les décisions et recommandations suivantes :

1. La réunion a pris bonne note des objectifs clés de la composante sur l'Évaluation de l'impact environnemental (EIE) du Projet WIO-LaB/PNUE ainsi que du fait que l'atteinte de ces objectifs va de pair avec ceux de la Convention de Nairobi/PNUE et le texte du Protocole sur les activités et sources de pollution terrestres de la Convention qui a été proposé. Elle a également requis la pleine mise en œuvre de la Convention et a approuvé les activités comme définies dans le plan de travail adopté en 2004.
2. Les délégués ont examiné et approuvé, avec amendements, les Termes de référence du Groupe de travail régional sur l'EIE établi sous les auspices du Projet WIO-LaB/PNUE et de la Convention de Nairobi/PNUE. Ils ont aussi demandé à l'Unité de gestion du projet WIO-LaB de soutenir et faciliter pleinement les opérations du Groupe de travail afin que ce dernier puisse s'acquitter de sa mission.
3. Les délégués ont examiné et approuvé, avec amendements, les Termes de référence du Consultant régional en EIE engagé par le Projet WIO-LaB/PNUE et ils ont demandé à l'Unité de gestion du projet WIO-LaB et aux membres du Groupe de travail sur l'EIE de soutenir et faciliter pleinement le travail du Consultant afin qu'il puisse mener à bien les objectifs fixés.
4. La réunion a pris bonne note des diverses approches et/ou réglementations en matière d'EIE qui sont appliquées par les parties contractantes à la Convention de Nairobi/PNUE et elle a demandé l'établissement d'un cadre de travail et de mécanismes régionaux afin de gérer les évaluations des impacts environnementaux transfrontaliers pour pouvoir assurer une meilleure protection et gestion de l'environnement marin et côtier dans la région de l'océan Indien occidental (OIO).
5. La réunion a aussi recommandé l'établissement d'approches communes pour la gestion des impacts environnementaux transfrontaliers à caractère particulier dans la région de l'OIO.
6. La réunion a mis l'accent sur la nécessité pour la Convention de Nairobi de renforcer davantage le partenariat avec d'autres initiatives régionales/internationales dans la région de l'OIO telles que celles de l'IUCN, du WWF, de la CLEAA, etc. en vue d'établir des dispositifs pour la mise en œuvre de l'Évaluation environnementale stratégique (EES) régionale propre aux différents secteurs.
7. La réunion a pris bonne note des dispositions de la Convention de Nairobi/PNUE (y compris le texte proposé du Protocole sur les activités et sources de pollution terrestres) en matière d'évaluation de l'impact environnemental. Elle a également recommandé un(e) partenariat/collaboration avec d'autres mécanismes régionaux et internationaux existants tels que ceux de l'AIEI, la CLEAA, etc. de manière à améliorer l'échange des informations et expériences sur la mise en application de l'EIE dans la région de l'OIO.
8. Les délégués ont aussi pris bonne note de l'avant-projet de questionnaire établi par le Consultant régional pour la collecte d'informations sur les politiques, réglementations et cadres institutionnels en matière d'EIE dans les pays participants et ils se sont accordés à fournir les informations requises au Consultant régional en EIE endéans les délais prescrits.
9. La réunion a examiné et approuvé le plan de travail pour la mise en œuvre de la composante EIE du Projet WIO-LaB.

10. La réunion s'est aussi accordée sur le fait que le renforcement des capacités dans le cadre de la mise en œuvre de l'EIE est critique dans la région de l'OIO et qu'il doit être pris en considération dans la phase suivante du projet. Sur base des recommandations émanant de l'examen des cadres d'EIE nationaux existants, le Groupe de travail régional sur l'EIE devrait émettre des recommandations spécifiques sur les activités ciblées de renforcement des capacités.

Les versions électroniques des décisions et recommandations de la réunion ont été distribuées à tous les délégués après la clôture de la réunion le mercredi 26 juillet 2006.

## **1. OPENING OF THE MEETING**

1.0.1 The UNEP/WIO-LaB Project Manager, Dr. Peter Scheren called the meeting to order at 9.15 am on Tuesday 25<sup>th</sup> July 2006.

### **1.1 Welcome remarks by the Project Manager, UNEP-GEF WIO-LaB Project.**

1.1.1 The WIO-LaB Project Manager, Dr. Peter Scheren welcomed all the participants to the inception meeting of the Environmental Impact Assessment (EIA) Task Force. Dr. Scheren briefed the meeting on the importance of the coastal and marine environment in the WIO Region in terms of biodiversity and provision of socio-economic livelihoods. He noted that the large population in the coastal zones of the region is already impacting on the marine and coastal environment as evidenced by increasing destruction of key habitats. He noted that it was on this basis that countries in the region signed the UNEP/Nairobi Convention in 1985 in order to promote concerted efforts in the protection and management of the coastal and marine environment in the region. He reminded the participants that the Conference of Contracting Parties to the Nairobi Convention has subsequently called for actions on land-based activities/sources that contribute most of the pollution and degradation of the coastal and marine environment in the region. It was on this basis that the UNEP/WIO-LaB Project 'Addressing land-based activities in the Western Indian Ocean region' was conceived.

1.1.2 Dr. Scheren also briefed the meeting about the objectives and mandates of the WIO-LaB Project noting that the project is dealing with key priority of governments that are Contracting parties to the Nairobi Convention. Noting the development of regional guidelines on EIA was among the priorities identified in the region, Dr. Scheren also briefed the meeting on the objectives of the EIA component of the WIO-LaB Project. He noted that Nairobi Convention has specific clauses the EIA. He also noted that almost all countries in the region have comprehensive EIA Frameworks; however there is no mechanism for the coordination of environmental issues that have transboundary impacts such as oil and gas exploration, mining, habitat destruction and its impact to fisheries, etc. He noted that the present meeting will chart the way forward in regard to implementation of activities related to transboundary environmental issues and impacts.

1.1.3 Dr. Scheren also took this opportunity to brief the delegates on the arrangements for deliberations of the various components of the agenda items and what the meeting was supposed to achieve. Dr. Scheren also thanked the Ministry for Coordination of Environmental Affairs (MICOA) for having agreed to host this inception meeting in Mozambique.

### **1.2 Welcome remarks by the Programme Officer, UNEP/Nairobi Convention.**

1.2.1 The WIO-LaB Project Manager, Dr. Peter Scheren welcomed Mr. Dixon Waruinge, the Programme Officer in-charge of UNEP/Nairobi Convention to make his official remarks.

1.2.2 On behalf of the Nairobi Convention Secretariat and UNEP, Mr. Waruinge thanked the Government of Mozambique through the Ministry for Coordination of Environmental Affairs (MICOA) for having agreed/accepted to host the meeting in Mozambique. He also welcomed the participants to the meeting.

1.2.3 Mr. Waruinge provided an overview of both the Nairobi and Abidjan Conventions for the protection, management and development of the coastal and marine environment in West and Central and Eastern Africa, respectively. He briefed the meeting about the genesis of the two conventions including the coordination arrangements.

1.2.4 Mr. Waruinge noted that EIA is an evolving and ongoing process and in the last decade many countries in the WIO region enacted EIA regulations and allocated resources for its implementation.

However, resources allocated were not substantive in the region and in many instances; EIA was seen as an obstructive regulation that hampered development efforts. The EIA regulations were similar and did not take into account the uniqueness of countries. This was due to the fact that most of them were done by same international consultants who did little to accustom to local conditions. There was also a shortage of capacity-building programmes in the region. He also noted that most of the EIA documents were voluminous, too technical and unappealing to policy makers. All the above meant that EIA processes were not effective in the WIO region and it was on this basis that an EIA Component was devised for the WIO-LaB Project with an aim addressing the concerns.

1.2.5 Mr. Waruinge noted that Nairobi Convention provides the contracting parties with an obligation of sharing information and experiences in the management and protection of the coastal and marine environment. He noted that there is an urgent need to find out whether there is a mechanism for sharing information and experiences on the application of EIA in participating countries in the WIO Region.

1.2.6 Mr. Waruinge also briefed the meeting on the major goals of the Nairobi Convention in as far as the management and development of the coastal and marine environment in Western Indian Ocean region is concerned. He briefed the participants on the objectives of the Nairobi Convention and how the WIO-LaB Project is addressing the work programme of the convention.

1.2.7 Mr. Waruinge also noted the importance of addressing key issues in as far as EIA is concerned. He noted that most of the countries in the WIO Region have their own EIA guidelines and it would be important for the delegates to discuss the commonalities between countries and especially how the same can be used to deal with transboundary environmental matters.

### **1.3 Official opening of the meeting by official of the Ministry for the Coordination of Environmental Affairs (MICOA), Mozambique**

1.3.1 The WIO-LaB Project Manager Dr. Peter Scheren invited the National Director of Environmental Management in the Ministry of Coordination of Environmental Affairs (MICOA), Dr. Policarpo Napica to make his official speech. Dr. Napica welcomed the delegates and wished them a good stay in Mozambique. He also expressed his appreciations to the Nairobi Convention Secretariat and WIO-LaB Project for having given Mozambique the honour of hosting the inception meeting of the Regional EIA Task Force.

1.3.2 Dr. Napica took this opportunity to remind the delegates on the importance of the coastal and marine environment in the WIO Region, especially in regard to their contribution to various socio-economic activities such as transport, tourism, fisheries, etc. He noted the increasing degradation of coastal marine resources and the various challenges that countries in the WIO region are facing in the management of the coastal and marine environment. He noted the management of the coastal and marine environment is a matter of great concern in view of the need to curtail further degradation of ecological systems and associated socio-economic livelihood systems.

1.3.3 Dr. Napica noted that the inception meeting of EIA Regional Task Force would provide a good opportunity for EIA experts in the region to discuss and establish modalities of how EIA can contribute to the protection, preservation and management of the coastal and marine environment in the Western Indian Ocean region.

1.3.4 Dr. Napica concluded his speech by urging the delegates to enjoy the warm hospitality provided by the people of Mozambique and wished the delegates good deliberations.

## **1.4 Introduction of the members of the Regional Task Force on EIA.**

1.4.1 The participants were requested to introduce themselves stating the countries and institutions that they represented. There followed a tour de table in which all participants introduced themselves. The list of participants is presented in this report as Annex 2.

## **2. ORGANIZATION OF THE MEETING AND ELECTION OF OFFICERS (CHAIR AND RAPPORTEUR)**

2.1 The WIO-LaB Project Manager, Dr. Peter Scheren brought to the attention of the delegates the requirements for the election of the Chairperson and the Rapporteur of the inception meeting of the EIA Regional Task Force. He then requested country delegates to propose names for the two positions.

2.2 Madagascar nominated Mozambique for the post of the Chairperson. This nomination was seconded by Kenya and was unanimously accepted by the delegates. However, Dr. Policarpo Napica, on behalf of Mozambique, noted that due to language limitations, it may be difficult for Mozambique to chair the meeting. In this regard, there followed a new nomination in which Madagascar was proposed as the Chair in view of its current position as the Chair of the Bureau for Nairobi Convention. This proposal was duly accepted by all delegates. Ms. Chantal Andrianarivo, on behalf of Madagascar and the Chair of the Bureau of Nairobi Convention accepted to chair the meeting.

2.3 For the post of the Rapporteur, Comoros nominated Mauritius and this nomination was unanimously accepted by the delegates. The representative of Mauritius, Mr. Keshore Kumar Heeramun accepted the election on behalf of Mauritius. The Rapporteur took note of the key decisions and recommendations of the meeting and worked in close liaison with the UNEP/WIO-LaB Project Secretariat that had the responsibility of preparing the detailed report of this meeting.

## **3. CONSIDERATION AND ADOPTION OF THE AGENDA**

3.1 The elected Chairperson of the inception meeting of the Regional Task Force on EIA, Ms. Chantal Andrianarivo, who is also the UNEP/Nairobi Convention Focal Point for Madagascar, introduced the provisional agenda that was prepared by WIO-LaB Project Management Unit. She took the delegates through each of the agenda items and requested them to request for any necessary clarification and/or amendment.

3.2 There was an amendment to the draft provisional agenda that was presented to the delegates. The delegates requested addition an agenda item on the Nairobi and Abidjan Convention presentation to be made by Mr. Dixon Waruinge. The final agenda is presented in this report as background document presented in Annex 1.

## **4. BRIEFING ON THE ABIDJAN AND NAIROBI CONVENTIONS**

4.1 The Chairperson Ms. Chantal Andrianarivo, invited Mr. Dixon Waruinge, the Programme Officer in-charge of UNEP/Nairobi Convention and Abidjan Conventions to brief the meeting on the two UNEP supported Conventions.

4.2 Mr. Waruinge briefed the meeting on the Abidjan and Nairobi Conventions for the Protection, Development and Management of the Marine and Coastal Environment whose goal is to foster regional cooperation in the protection, management and development of the coastal and marine

environment. He briefed the meeting on the Geographical jurisdiction of the two conventions and noted that the Abidjan Convention that was signed in 1981 came into force in 1984 and covers 22 countries in central and west Africa out of which 12 have ratified the convention. Nairobi Convention that was signed in 1981, came into force May 1996 and it covers 10 Countries in Eastern Africa that have all have ratified the convention.

4.3 Mr. Waruinge briefed the meeting on the main objectives of the two Conventions and Action Plans. These objectives are: (1) foster regional cooperation in the protection, management and development of the coastal and marine environment, (2) serve as a platform for regional dialogue and implementation of global conventions, MEAs and global programmes and (3) serve as a regional platform for coordination of activities that will contribute to sustainable development of the shared marine and coastal resources; (4) to serve as a regional platform for coordination of activities that will contribute to sustainable development of the shared marine and coastal environment and (5) promote the development of integrated management, based on the ecosystem approach.

4.4 Mr. Waruinge also briefed the meeting on the Adopted work plan of the Convention noting that this includes implementation of effective regional EIA processes through (a) review of existing national EIA processes and (b) draft regional guidelines for EIA in the transboundary context (the ESPOO Convention on Transboundary Impact Assessment as a model). Mr. Waruinge also briefed the meeting on the Article 13 of the Nairobi Convention that is focused on EIA. The Article 13 requires each country to (a) develop guidelines to assist planning of major projects; (b) assess potential environmental impacts from major projects (that may cause pollution, habitat degradation) and (c) transmit information to other contracting parties that likely to be effected.

4.5 Mr. Waruinge also briefed the meeting on the requirements of different articles of Nairobi Convention, particularly Article 12 on environmental damage from engineering work; Article 16 that requires UNEP to consider and disseminate information as requested by contracting parties, Article 15 of protocol that requires contracting parties to inform the public as widely as possible of the significance of MPAs and develop procedures for information dissemination with regard to environmental effects of major projects.

4.6 Mr. Waruinge also appraised the meeting with experience in the region in as far as the implementation of the convention is concerned. Key challenges experienced so far include; (a) inadequate institutional infrastructure, as well as the lack of adequate expertise, experience and information, (b) collection of data, frequently of little substantive relevance that takes considerable time and causes delays, (c) a large proportion of marginally relevant background material are included in the EIAs that are usually identical regardless of whether the project is proposed for the wetlands of Bangladesh or the arid area of Kenya, (d) EIA reports are too voluminous, too technical and often they have been of little value as practical management tools, (e) the cost of preparing EIA is frequently very high, (f) there is lost political will as a result of the above shortcomings.

4.7 Mr. Waruinge also briefed the meeting on the obligations of States that are Contracting Parties to the Nairobi Convention. He noted that States should provide on the basis of reciprocity, notification, exchange of information, and agreed-upon consultation on the potential environmental effects of activities under their control or jurisdiction which are likely to significantly affect other States or areas beyond national jurisdiction. When information provided as part of an EIA indicates that the environment within another State is likely to be significantly affected by a proposed activity, the State in which the activity is being planned should, to the extent possible notify the potentially affected State of the proposed activity and also transmit to the potentially affected State any relevant information from the EIA.

4.8 Mr. Waruinge also briefed the meeting on what countries could do together in order to improve the application of EIA at regional level. He noted that countries should review the Convention and the Articles relevant to the EIA and establish whether the criteria and procedures for determining whether

an activity is likely to affect the environment is defined clearly by legislation and regulation in their countries. Countries should also strive to establish mechanisms of sharing information in a structured way.

4.9 Mr. Waruinge noted that at national level, all EIA should include at the minimum, an identification and description of measures available to mitigate adverse environmental impacts of the proposed activity and including an assessment of the alternative measures. He noted that if this is done, EIA will not be viewed as obstructionist to development. The EIA should assess impacts with a degree of detail that is commensurate with their likely environmental significance. Countries should also ensure that before a decision is made to issue an EIA license, government agencies, members of the public, experts in relevant disciplines and interested groups should be allowed appropriate opportunities to comment on the EIA Report. Also, in order for the decision makers to easily digest the outcome of EIA, it would be important to provide them with a brief, non-technical summary of the EIA Reports.

4.10 Following the above presentation, the Chair opened the floor for discussions. During the discussions that followed, there was some further deliberations on the issue of EIA been perceived as stopping development. Participants wondered whether there is any data that can be used to illustrate this perception. It was however noted that this perception is partly due to the fact that projects of different scales (small, medium or large) are usually subjected to the same EIA processes and regulation requirements and the costs involved in undertaking them are usually exorbitant. It was noted that some Non-Governmental Organizations have in the past used EIA to stop development projects. It was emphasized that EIA should be seen as a management tool that provides developers with recommendations on measures that can be used to mitigate adverse impacts.

4.11 There were some discussions as to whether Nairobi Convention has assessed the capacity in the region to implement EIA as per the required standards and whether all countries are at the same level in regard to implementation of EIA. It was however noted that no such assessment was carried out in the WIO Region, and as such the capacities of different countries are not known at present. However, in 1985 when signing the Nairobi Convention was ratified by the countries, there was some information on the capabilities of countries at that time. However, at the moment there is no updated information on the countries. It in this regard that UNEP/WIO-LaB Project aims at establishing the current status and problems that countries are facing. The present meeting should provide some clarity on the activities that have been undertaken in participating countries.

## **5. BRIEFING ON THE GENERAL OBJECTIVES AND ACTIVITIES OF THE WIO-LAB PROJECT**

5.1 The Chair, Ms. Chantal Andrianarivo invited the UNEP/WIO-LaB Project Manager, Dr. Peter Scheren to brief the meeting on the general objectives and key components and activities of the UNEP/WIO-LaB Project. Dr. Scheren briefed the delegates on the key characteristics of the project citing the participating countries, the duration of the project, the implementing and executing agencies and main donors. He also briefed the meeting on the three objectives of the WIO-LaB Project including the main components and activities that are been implemented in the eight countries that are participating in the implementation of the project.

5.2 Dr. Scheren also briefed the meeting about the countries that are participating in the project namely Kenya, Tanzania, Mozambique, South Africa, Seychelles, Comoros, Madagascar and Mauritius. He also briefed them on the financiers of the project i.e. GEF, Government of Norway and the Governments of participating countries. He also briefed them on the total budget of the project, including contributions from GEF, Norway and in-kind contributions from participating governments. Nairobi Convention and United Nations Office for Project Services (UNOPS) are the joint executing agencies while UNEP is the implementing agency of the project.

5.3 Dr. Scheren took this opportunity to brief the delegates on the Project Management Unit that is housed within the Secretariat of UNEP/Nairobi Convention in Nairobi Kenya.

5.4 During the discussions that followed the above presentation, it was noted that there is a need to identify opportunities for synergy with the other conventions that the participating countries are party to. It was also noted that there is a need for the project to also take into account the coastal mining EIA guidelines that were developed under the auspices of Secretariat for Eastern African Coastal Area Management (SEACAM) that was launched in Maputo, Mozambique. It was noted that not all threats to the coastal and marine environment are land-based and delegates wondered whether the project should just restrict itself to the development of guidelines for the land-based activities. It was noted that offshore activities such as oil and gas exploration, mining, transport, mariculture, etc also have impacts on the coastal and marine environment and need to be considered while developing EIA guidelines for the region. It was however clarified that although WIO-LaB Project is a demonstration project for land-based sources and activities (LBSA), it will not restrict itself to LBSA when it comes to the development of EIA Guidelines. It was noted that EIA Guidelines should be broad and should cut across many disciplines.

5.5 There was also some discussion as to whether WIO-LaB Project will deal with pollution that originates from Inland catchment areas and that impact on the coastal and marine environment. It was however made clear that the project will also take into account pollution from river basins since whatever happens in the river basins affects the coastal and marine environment.

5.6 It was also noted that emphasis should be on building the capacity of institutions so that they can effectively deal with all EIA without restricting to either downstream or upstream sources of pollution. Establishment of good regional and national institutions for EIA is crucial to deal with those matters.

## **6. BRIEFING AND DISCUSSION ON THE OBJECTIVES OF THE EIA COMPONENT OF THE WIO-LAB PROJECT**

6.1 The Chair, Ms. Chantal Andrianarivo invited the UNEP/WIO-LaB Project Manager, Dr. Peter Scheren to brief the meeting on the general objectives of the UNEP/WIO-LaB Project EIA Component. Dr. Scheren briefed the delegates on the EIA component of the project. He noted that although different EIA frameworks in the WIO Countries, there is no regional framework for dealing with transboundary issues. He emphasized on the need to explore opportunities for cooperation in the region. He noted that the objective is to review and implement effective EIA in the WIO Region with a special focus on transboundary impacts/issues. Dr. Scheren informed the meeting that key activities will be undertaken will include review of existing EIA frameworks in participating countries, review of lessons learnt in the implementation of EIA, and identify needs and opportunities for adjustment of EIA frameworks in the region, review international examples of transboundary EIA frameworks, develop regional guidelines and develop specific clauses on EIA for revised Nairobi Convention and land-based sources/activities (LBSA) Protocol.

6.2 Dr. Scheren also briefed on the process noting that the Regional Task Force will be the principal mechanism for implementation of activities. The Regional EIA Consultant will offer facilitation services. He noted that the inception meeting is basically intended to chart the way forward in regard to the implementation of the EIA component of the project.

6.3 Dr. Scheren introduced the Regional EIA Consultant Dr. Peter Tarr who is expected to work closely with the EIA Regional Task in reviewing EIA approaches and experiences in participating countries and also charting the way forward in the development of common approaches in the WIO Region.



6.4 The meeting took note of the key objectives of the EIA component of the UNEP/WIO-LaB and noted that the achievements of these objectives are in tandem with those of the UNEP/Nairobi Convention including the new text for the Land-based Sources/activities Protocol of the Convention, and called for full implementation of agreed activities as defined in the workplan.

6.5 There were also some discussions on the ESPOO Convention. It was noted that signatories of ESPOO Convention commit themselves to work with downstream countries in order to reduce transboundary impacts. Although it is an international convention, it seems to have been taken up well in Europe and it has in fact fed into the development of EU EIA directives. It was also noted that ESPOO Convention is applicable for large development projects such as those in the oil sector. It was suggested that the meeting should consider to adapt ESPOO Convention if found good for the region.

6.6 The meeting was also informed about the transboundary EIA guidelines developed under the auspices of the East African Community and that was adopted under EAC Environmental Management Protocol. It was noted that this document may assist the Task Force draw lessons on the development of transboundary EIA Guidelines. The meeting was also informed about the shared water protocol of Southern Africa Development Community (SADC) that may be relevant to the project.

## **7. DELIBERATIONS ON THE TERMS OF REFERENCE (TOR) OF THE REGIONAL EIA TASK FORCE**

7.1 The Chair, Ms. Chantal Andrianarivo invited the UNEP/WIO-LaB Project Officer, Dr. Johnson U. Kitheka to brief the meeting on the general Terms of Reference of the EIA Regional Task Force. Dr. Johnson U. Kitheka, the Project Officer/Environmental Scientist of the UNEP/WIO-LaB Project briefed the delegates the specific roles and responsibilities of the Regional Task Force.

7.2 Dr. Kitheka informed the participants that the Regional EIA Task Force will work in close liaison with the Regional EIA Consultant who will coordinate, guide and assist the Regional EIA Task Force on the review and development of common regional approaches on the application of EIA in the WIO Ocean region. The Consultant will also assist the Regional EIA Task Force in the process of establishing lessons learnt in the implementation of EIA in participating countries.

7.3 During discussions that followed the above presentation, the need to include also Environmental Auditing, was emphasized. Furthermore, it was also noted that it would be important to capture Strategic Environmental Assessment (SEA) as a management tool for establishing the overall implications of policies, plans and programmes, etc.

7.4 There were also discussions on the need for capacity-building. It was noted that this is an important issue that should be captured by the Educational and Training Assessment that is being carried out by Western Indian Ocean Marine Science Association (WIOMSA). It was noted that existing capacity in the region is unknown. In this regard, it is not clear what needs to be done in the region in as far as EIA is concerned. It was noted that the present meeting should establish exactly what needs to be done and there should be some a concrete recommendation on the need for capacity-building in the region.

7.5 There were also some discussions on the transboundary impacts, since it was felt that the island states may not have impacts of transboundary nature in view of their geographical location. It was however noted that projects in the islands could have large-scale impacts elsewhere in the region. For instance oil spill can spread to other countries as a result of ocean currents that transpasses the region. Also destruction of mangroves and coral reef ecosystems could that impact on the offshore fisheries in the entire region.

7.6 There were also some discussions on the issue of Strategic Environmental Assessment (SEA). SEA was noted to be important and it was suggested that emphasis should also be put in the development of SEA regional guidelines. It would be important to instead establish how SEA could help EIA in the region. It was also emphasized that Regional EIA Guidelines will not replace the existing EIA Guidelines in each of the participating countries. However, it was noted that where a project cuts across two countries, the regional EIA guidelines will apply instead of the national ones.

7.7 Following discussions on the draft Terms of Reference, the delegates endorsed with amendments the Terms of Reference of the EIA (EIA) Regional Task Force established under the auspices of the UNEP/WIO-LaB Project/UNEP/Nairobi Convention and called for the WIO-LaB Project Management Unit to fully support and facilitate the operations of the Task Force in order to achieve its objectives. The adopted Terms of Reference are presented in this report as Annex 4.

## **8. DELIBERATIONS ON THE TERMS OF REFERENCE (TOR) OF THE REGIONAL EIA EXPERT**

8.1 The Chair, Ms. Chantal Andrianarivo invited the UNEP/WIO-LaB Project Officer, Dr. Johnson U. Kitheka to brief the meeting on the general Terms of Reference of the EIA Regional Expert. Dr. Johnson U. Kitheka, the Project Officer/Environmental Scientist of the UNEP/WIO-LaB Project briefed the delegates on the specific roles and responsibilities of the Regional Expert.

8.2 Dr. Kitheka informed the delegates that the Regional Consultant selected by the WIO-LaB Project Management will be expected to work very closely with the EIA Regional Task Force in the review of the common EIA approaches in the Region as well as the development of common regional guidelines for assessment of transboundary issues/impacts and the coastal and marine environment in the WIO Region.

8.3 Dr. Kitheka also briefed the meeting on the expected outputs of the consultancy including the set timeframe for delivery of outputs: Thee expected outputs are: (1) Regional Review Report on EIA approaches in the WIO Region, (2) Guidelines for EIA for the assessment of transboundary impacts in the WIO Region (3) Draft revised EIA text of Article 13 of the Nairobi Convention and (4) Review of the EIA clauses in Article 13 of the Protocol on Land-Based Sources and Activities.

8.4 Following discussions, the delegates endorsed with amendments the Terms of Reference of the EIA Regional Consultant recruited by the UNEP/WIO-LaB Project and called the WIO-LaB Project Management Unit and the members of the EIA Regional Task Force to fully support the consultant achieve the set objectives. The adopted Terms of References is presented in Annex 5.

## **9. BRIEFING ON THE ROLE OF CLEAA**

9.1 The Chair, Ms. Chantal Andrianarivo invited Dr. Peter Tarr, the Executive Director of the Southern African Institute for Environmental Assessment (SAIEA) to make a presentation on the role of Capacity Development and Linkages for EIA in Africa (CLEAA). Dr. Tarr briefed the meeting on the objectives and mandates of CLEAA including the associated sub-regional mechanisms for EIA such as Eastern Africa Association for Impact Assessment (EAAIA), West Africa Association for Impact Assessment (WAAIA), Southern Africa Association for Impact Assessment (SAAIA), Indian Ocean Association for Impact Assessment (IOAIA), and Central Africa Association for Impact Assessment (CAAIA).

9.2 Dr. Tarr informed the meeting that CLEAA's regional nodes are recognized by African Ministerial Conference on Environment (AMCEN) and the New Partnership for Africa's Development (NEPAD).

9.3 During the discussions that followed the above presentation, it was suggested that the Nairobi Convention should recognize the three active sub-regional nodes of CLEAA, namely WAAIAA, SAIEA and EAIAA. It was also noted that it would be important to establish partnership with these organizations.

## **10. COUNTRY BRIEFINGS ON THE EXISTING EIA FRAMEWORKS AND PROCESSES IN PARTICIPATING COUNTRIES**

10.0.1 The Chair, Ms. Chantal Andrianarivo introduced the above mentioned agenda item and invited the UNEP/WIO-LaB Project Manager, Dr. Peter Scheren to brief the meeting on what was supposed to be accomplished during the presentations by the representatives of participating countries. Dr. Scheren informed the delegates that their presentations should be according to the format that was sent to them in the background documents.

10.0.2 The Chair then invited the representatives of the Comoros, Seychelles, Madagascar, Kenya, Tanzania, Mozambique and South Africa to make their presentations on the EIA frameworks in their countries.

### **10.1 Comoros**

10.1.1 Mr. Ismael Bachirou, Chef de Service Contrôle et Réglementation, made a presentation of the Regulations governing EIA in the Union of the Comoros. He briefed the meeting on regulation n° 94-018AF of June 22, 1994 whose objective is to preserve biodiversity and the integrity of the environment which is regarded as an integral part of the universal inheritance in the Comoros. The objective of the EIA regulation is also to create the conditions for the sustainable use of the natural resources and to guarantee to all the citizens an ecologically balanced framework of life.

10.1.2 Mr. Bachirou briefed the meeting on Article 11 that describes the types of projects that must be subjected to EIA as defined in the decree N° 01-52/CE of April 19, 201. He also briefed the meeting on the key weaknesses of the legislation. In this regard, he noted that the legal texts are not explicit on the limiting values and standards. The law also does not cover very well issues related biological diversity.

10.1.3 Mr. Bachirou noted that EIA emphasizes the need to determine the direct and indirect, temporary and permanent impacts of the proposed project paying attention to the potential impacts on the human and physical environment. The EIA Report must also provide measures that will be undertaken in order to reduce the detrimental effects of the proposed project on the environment.

10.1.4 Mr. Bachirou informed the meeting on the projects that must be subjected to EIA as defined in Decree n°01-052/CE. He also informed the meeting that maintenance works and/or repairs to existing works are not subjected to full EIA except if they have significant impacts on the environment.

10.1.5 Mr. Bachirou also briefed the meeting on the key institutions in the Comoros involved in the preparation of the laws and the regulation on EIA. These include the National Parliament, Ministry of Agriculture, Fishing, Craft industry, and Environment; Directorate of Environment, National Institution for Research on Agriculture, Fishing and the Environment (INRAPE), National Center for Documentation and Scientific Research (CNDRS) and the Director-General of the Planning.

10.1.6 Mr. Bachirou also informed the meeting that in the preparation of the procedures for evaluation of EIA Reports, the institutions that are usually involved in the Comoros include the Ministry of Environment; Department of Environment, INRAPE, ONGS and the Technical Committee for EIA (CTE). Institutions that are involved in processing application for projects development include the Ministry of environment, Directorate of Environment, Municipalities, CTE and the Public. Evaluation of the adequacy of EIA Report prepared by a hired practitioner is usually done by the National Directorate of Environment, INRAPE, CTE and Ministries concerned and the general public is also involved in the review process.

10.1.7 Mr. Bachirou also informed the meeting on the key institutions that are involved in the negotiation with the project proponents on the compensation measures. These include the National Directorate of Environment, CTE, the Public, Municipalities and Prefectures. For control of award of compensations, the key institutions that are involved are National Directorate of Environment, INRAPE, CNDRS and CTE.

10.1.8 Mr. Bachirou noted that in the determination of the level of compensation, the criteria used in the Comoros is based on “polluter pays” principle. He also informed the meeting that the EIA Permit is usually signed by the Minister following the advice of the CTE. The Director General and Permanent Secretary in the Ministry of Environment can also sign the EIA permit. He also noted that before Environment Impact Assessment permit is issued, other sectoral ministries are consulted and the permit is issued once all other Ministries are in agreement. He noted that EIA permit is the first license to be issued in the Comoros. In regard to the transboundary environmental impacts, he noted that Comoros normally follows the Indian Ocean Commission (IOC) procedures.

10.1.9 During discussions that followed the above presentation, it was noted that in view of the fact that there are no environmental standards to support EIA processes in Comoros, the WIO-LaB Project should find ways of helping Comoros to come up with required standards. It was noted that in general, there is lack of adequate environmental data that can be used to support management of the coastal and marine environment in the WIO region. It was also noted that there are no specific procedures for dealing with transboundary environmental impact issues.

## **10.2 Kenya**

10.2.1 Mr. Maurice Mbegera, the Director of Compliance and Enforcement Department of the National Environment Management Authority (NEMA) of Kenya made a presentation on the EIA Process in Kenya. He informed the meeting that EIA in Kenya is governed by the Environment Management and Coordination Act (EMCA), 1999-Part VI Section 58 to 67 and the Environmental Impact (Assessment and Audit) Regulations (2003) are the principle legal framework guiding the EIA Processes in Kenya.

10.2.2 Mr. Mbegera also briefed the participants on EIA process in Kenya from the stage when the Terms of Reference (TOR) are developed to the stage when the EIA permit is granted. He noted that the submission of the Project EIA Report must be accompanied by payment of a fee equivalent to 0.1% of the total cost of the project. This fee goes to general revenue account of NEMA and it is used to run NEMA activities. 10% of this fee goes to the National Environment Management Fund and 90% is used to run NEMA activities.

10.2.3 Mr. Mbegera also briefed the meeting on the role of the National Environmental Tribunal (NET) including the dispute resolution procedures. He also expounded on the roles of the Technical Advisory Committee (TAC) and the lead agencies.

10.2.4 Mr. Mbegera also briefed the meeting on the procedures for the approval of the project as stated in EIA and Audit Regulations, 2003, Part II Section 10 (2) & (3). He also briefed the meeting on the

EIA Review criteria noting in particular issues that are taken into consideration before an EIA license is issued. He noted that decision to approve is granted with conditions that have to be adhered to.

10.2.5 Mr. Mbegera noted that the EIA regulation in Kenya allows for variation and transfer of EIA License and a fresh EIA Study is not required if the Authority is satisfied that the project if varied would comply with the requirements of the original license. Mr. Mbegera briefed the meeting on the surrender of EIA License noting that holder of EIA license may surrender the license to the Authority after ceasing to be responsible for the implementation of the Project.

10.2.6 Mr. Mbegera also informed the meeting that EIA regulations have provisions for the cancellation of an EIA License. The Authority may revoke or cancel the license if the licensee contravenes the conditions set out in the license; if there is substantial change or modification in the project and its implementation; if the project poses an environmental threat which could not be reasonably foreseen before the license was issued; if it is established that information or data given by the proponent in support of the application for the license was false, incorrect or intended to mislead.

10.2.7 Mr. Mbegera also informed the meeting that EMCA, 1999 Part XI Section 12:4 recognizes regional and international issues. NEMA can initiate proposals for consideration by the Attorney-General, for purposes of giving effect to a treaty, convention or agreement in Kenya or for enabling Kenya to perform her obligations or exercise her rights under such treaty, convention or agreement. The Authority can identify appropriate measures necessary for the national implementation of such treaty, convention or agreement.

10.2.8 Mr. Mbegera also informed the meeting that regional and international issues are also covered under the Regulation 44 of EIA and Audit Regulation, 2003 that notes that where a project is likely to transboundary environmental impacts, the proponent should in consultation with the NEMA ensure that appropriate measures are taken to mitigate any adverse impacts taking into account any existing treaties and agreements between Kenya and other country.

10.2.9 Mr. Mbegera also briefed the meeting on the status of the EIA Reports submitted to the NEMA noting that by June 2006, NEMA had received 1445 EIA Reports. Most of the EIA reports are for the human settlement and infrastructure projects thematic areas. It was noted that only a few EIA reports have been prepared for projects implemented in the Coastal Region of Kenya.

10.2.10 Mr. Mbegera also informed the meeting the law recognizes Strategic Environmental Assessment (SEA) as a process of subjecting public policy, national and sectoral plans and programmes to test for compliance with sound environmental management. It considers the implementation of alternative policy actions, plans and programmes taking into consideration the use of natural resources, conservation of biodiversity, human settlement, cultural issues and socio-economic factors.

10.2.11 Discussions that followed the above presentation focused on the criteria for registering EIA Experts/practitioners in Kenya. It was noted that there are specific regulations/criteria for registration of EIA Practitioners in Kenya. The meeting was also briefed on the criteria for deregistering experts who commit various offences. In regard to whether the Technical Advisory Committee can cope with huge number of EIA reports that are submitted to NEMA on a monthly basis, it was also noted that the Committee meets every 2nd week of the month and is able to cope with the workload since 15 reviewers sit in the committee.

10.2.12 In regard to the question why only few EIAs have been undertaken in the Coast Province of Kenya, it was noted that this is due to fact that a large number of projects in the Coastal region of Kenya have not been subjected to EIA as is required by the law. This was noted to be a matter of concern since the WIO-LaB Project is focused on the coastal and marine environment.

10.2.13 There was a question in regard to the applicability of EIA to educational institutions since the EIA regulations in Kenya exempt educational institutions /projects from EIA. In case of educational institutions such as large universities with a large population, the stage at which NEMA decides whether such institution will require EIA is during the screening stage.

### **10.3 Madagascar**

10.3.1 Mr. Heritiana Randriamiarana, the Director of National Office for the Environment (ONE) in Madagascar, made a presentation on the EIA Process and associated legislative framework in Madagascar. He provided a detailed account of the provisions of the current legislation concerning the application of EIA in Madagascar including the policies that contributed to the enactment of EIA Legislation. He also briefed the meeting on the Environment Charter and the National Action Plan which is the core policy of EIA in Madagascar and which in 1990 led to the enactment of EIA regulation.

10.3.2 Mr. Randriamiarana briefed the meeting on the EIA process including the existence of sectoral EIA Guidelines such as those of the tourism, roads, aquaculture, oil drilling, textile, forest, mining, etc.

10.3.3 Mr. Randriamiarana also briefed the meeting on the projects that must be subjected to an EIA in Madagascar noting in particular that projects located in sensitive areas must be subjected to EIA. However, small-scale projects may only require a preliminary EIA to be undertaken particularly if the anticipated impacts are moderate.

10.3.4 Mr. Randriamiarana also briefed the meeting on the problems faced in Madagascar in as far as EIA application is concerned. Some of the problems include the lack of a mechanism for evaluating the cumulative impacts of the small projects/investments/enterprises. Also, small companies that are located in important ecological zones have been incurring enormous expenditure in undertaking EIA. He also noted that in some cases this expenditure is comparable to the planned investments. Another problem is lack of distinction between medium-sized projects and large firms since all projects are subjected to the same EIA requirements.

10.3.5 Mr. Randriamiarana also noted that there is a commitment in Madagascar to improve the EIA process. This is been done through awareness raising as well as through the establishment of a Regional Resource Centre and reduction of the cost of undertaking EIA. Effort is also focused on environmental auditing. There is also an effort towards coming up with standard environmental regulations in Madagascar.

10.3.6 During discussions that followed this presentation, the question of dispute resolution procedures in Madagascar was raised. It was noted that this is a conventional requirement in EIA and that there are no such formal dispute resolution procedures in Madagascar, but one can appeal if he/she is aggrieved by the decision that has been made. It was also noted that Madagascar has a unique difference with other countries since each sectoral ministry has an environment unit that plays a role in the EIA Process.

### **10.4 Mauritius**

10.4.1 Mrs. Doolaree Boodhun of the Ministry of Environment and National Development Unit of Mauritius made a presentation on the EIA regulations in Mauritius as defined in the Environment Protection Act (EPA) of 2002. She noted that the goal of EIA in Mauritius is to ensure sustainable development. EIA is regarded as key tool for sustainable environmental management since it considers alternatives and enables the authorities to make a critical appraisal of the likely impacts of major development projects at planning stage and ensures sound decision making.

10.4.2 Mrs. Boodhun noted that Part IV of EPA 2002 has provisions for EIA. The First Schedule of EPA (2002) defines activities requiring EIA. Mrs. Boodhun noted that Mauritius first adopted formal procedures for EIA in June 1993 after the promulgation of part IV of the EPA (1991). In order to further consolidate and reinforce the legal framework, a new EPA came into force on 5th September 2002. She briefed the meeting on the various provisions of EPA 2002 noting that the Act provides for environmental stewardship, greater transparency and public participation in the EIA mechanism and streamlining of the EIA procedure.

10.4.3 Mrs. Boodhun also briefed the meeting on projects that should be subjected to EIA as listed in the First Schedule of EPA 2002. These projects are categorized according to their scale, nature and the potential impacts and there are different requirements depending on the scale and potential impacts of undertakings. A Preliminary Environmental Report (PER) is required for undertakings that have little impacts (e.g. wastewater treatment plants) and full EIA is required for major undertakings that have significant impacts (e.g. coastal hotels, marinas, jetties, etc). The law also has provisions for Strategic Environmental Assessment (SEA) for major plans and programmes (e.g. ICZM plans, tourism development plans, etc). She also informed the meeting that the First Schedule of the EPA is being revisited in the light of past experience and with a view of avoiding duplication.

10.4.4 Mrs. Boodhun also briefed the meeting on the review and Assessment process at the Ministry of Environment in Mauritius, right from the time the project proponents applies for an EIA license to the stage when Minister makes a decision to issue or not to issue an EIA License.

10.4.5 Mrs. Boodhun also briefed the meeting on the constraints encountered in Mauritius while processing EIA/PER applications. She noted that in some cases EIA/PER reports contains inaccurate and insufficient information and in certain instances, baseline data that would enable informed decision to be made is not provided. She also noted that some EIA/PER Reports do not have environmental monitoring plans. Another major problem experienced is that the response from sector Ministries usually takes too long. Other problems include lack of sectoral EIA guidelines, policies and regulation and poor public participation.

10.4.6 Mrs. Boodhun also noted that delays in the issuance of EIA license in Mauritius occurs particularly when the EIA process is started too late in the project cycle and the Terms of Reference of the EIA experts are poorly drafted. In some cases, also, delays can be caused if the EIA process is not managed according to schedule and where EIA report is inadequate and needs to be upgraded. In some cases also, lack of technical data can cause delays in the EIA process.

10.4.7 Mr. Kumar adding to the presentation made by Ms. Boodhun, also informed the meeting that the list of projects that must be subjected to EIA is being updated. He noted that the previous list was shorter and this has been revised accordingly.

10.4.8 Mr. Kumar also noted that efforts are underway to come up with a shorter Preliminary form of EIA that is less vigorous. He also briefed the meeting on the Business Facilitation Bill which would eliminate the need for most of the licenses. A Committee has been formed to look into the Act. He also expounded on the amendments that are being proposed in order to improve monitoring of projects after they have been issued with EIA Licenses noting that at present less than 10% of the licensed projects are being monitored.

10.4.9 Mr. Kumar also informed the meeting that in the 1991 Act, there are provisions for public hearing and tribunal /project adjudication tribunal. However, Part IV of the Act dealing with EIA was not promulgated until 1993. He noted that for all cases, applications are circulated to all sector ministries who comment on the projects. A committee then advises the Minister who grants the EIA License. The Act also provides for an Appeal Tribunal.

10.4.10 Mr. Kumar also informed the meeting that they are in the process of preparing EIA Guidelines that will assist consultants. He however noted that they are at present preparing EIA Guidelines to assist the local Authorities.

10.4.11 In the discussions that followed the above presentation, there was a request for clarification on who grants the EIA License in Mauritius. It was however clarified that the decision is taken by the Minister who is advised by an EIA Committee and the license is issued by the Director. The Act provides for a Technical Advisory Committee to advise the Director where the Department does not have the expertise.

10.4.12 During the discussions it was noted that all EIAs are guided and reviewed by the Government and in all cases there is a conflict since government is also a proponent. It was also noted that in some cases there is political pressure to give favorable reviews to certain projects.

10.4.13 During the discussions, it was also noted that all EIA Guidelines and Acts in the WIO Region are very recent and it would be appropriate consider their impacts in the region. It was suggested that all projects that have transboundary impacts be subjected to Strategic Environmental Assessment. It was noted some countries in the region such as Kenya and Mauritius have already undertaken SEA in certain sectors and there is a need to encourage other countries to apply SEA.

10.4.14 It was also emphasized that there is a need to determine the experiences of the WIO countries in regard to the application of EIA and establish mechanisms of making the process transparent and attractive to investors. Countries should put in place mechanisms of ensuring that there are constant reviews of the EIA Process with a view to making adjustments in order to improve efficiency in their applications. It was noted that this would ensure that there is growth in the process of EIA in the region.

10.4.15 It was also noted that EIA Process results in delays in development due to cumbersome bureaucratic processes. In this regard, there is a need for countries to simplify the process taking into consideration the capacities existing in their countries. In this way, EIA would facilitate development.

## **10.5 Tanzania**

10.5.1 Mr. Godlove Mwamsojo, Senior Environmental Officer at the National Environment Management Council (NEMC) of Tanzania made a presentation on the EIA regulations in Tanzania. He noted that EIA is a relatively new concept in Tanzania, the first study having been conducted in 1980s at Stiegler's Gorge Hydro-power Project located in the Rufiji River basin. More studies were carried out in 1990s. He noted that the implementation of EIA during that time followed increased pressure from lending governments and financial institutions.

10.5.2 Mr. Mwamsojo noted that institutionalization of EIA in Tanzania started in 1983 when NEMC was established by Act no. 19 of 1983 to provide advice on all matters pertaining to the environment. In 1990, the Vice President's Office was established and the Division of Environment was established in 1992 to perform regulatory functions. He noted that the first draft of EIA guidelines and procedures was produced in 1997.

10.5.3 Mr. Mwamsojo noted that Tanzania National Environmental Policy (NEP) was formulated in 1997 and a full EIA Directorate was established at NEMC. EIA Procedures and Guidelines were drafted in the 1997 and they were amended in 2003. Recently the Government of Tanzania enacted the Environmental Management Act no. 20 of 2004 that provides a clear definition of institutional arrangements from national to village levels. The Act is supplemented by EIA and Audit Regulations (released in 2005) and that establishes code of conduct, principles and enforcement procedures.



10.5.4 Mr. Mwamsojo noted that the National Environmental Policy (NEP, 1997) recognizes EIA as one of the policy instruments. Mr. Mwamsojo also informed the meeting that other sector Ministries in Tanzania have included EIA in all their sectoral policies. These include Forestry, Wildlife, Industries, Fisheries, Bee-keeping, Tourism, Lands, Roads, and Water etc. However, these sector based procedures do not have a framework for issuing EIA permits /licenses.

10.5.5 Mr. Mwamsojo informed the meeting that EIA Guidelines for Road Sector are currently being tested and EIA Guidelines for National Parks are already been used in Tanzania. He also noted that EIA guidelines for Marine Parks and Reserves have been finalized and plans are underway to prepare EIA Guidelines for mariculture development and coastal tourism.

10.5.6 Mr. Mwamsojo also briefed the meeting on the Acts of Parliament in Tanzania that have EIA regulations/components. These include (a) Environmental Management Act No. 20 of 2004 (repealed NEM Act No 19 of 1983); (b) EIA and Audit Regulations of 2005; (c) Zanzibar Environmental Management for Sustainable Development Act No. 2 of 1996; (d) Mining Act of 1998 and Regulations of 1999; (e) Fisheries Act of 2003; (f) Forestry Act of 2002; (g) Marine Parks and Reserves Act of 1994 and (h) Environment Management Act 2004.

10.5.7 Mr. Mwamsojo noted that public hearing in Tanzania is undertaken for controversial projects. The current arrangements are such that the Minister makes a decision whether or not to issue EIA License/permit. However, there is a need for decentralization so that the Director-General of NEMC could also be mandated to issue EIA Permits. He noted that except for the cost of conducting the EIA study, permits are issued free of charge.

10.5.8 Mr. Mwamsojo also briefed the meeting on the projects/undertakings that must be subjected to EIA in Tanzania as defined in Part 81 of EMA and the penalties for non-compliance as defined in Para 191. He noted that Section 124 of EMA 2004 establishes an environmental tribunal where any person who is aggrieved by the decision of the Minister may appeal within a specified time period. The Tribunal comprises representatives of the high court, Attorney-General's office and two persons from other institutions in Tanzania.

10.5.9 Mr. Mwamsojo also informed the meeting that EMA 2004 also recognizes international obligations as detailed in Part 15 Section 179 (1) of Act that obligates the Minister, in consultation with the relevant sector Ministry to initiate preparation of legislative proposals for purposes of implementing international agreements. Section 180 (1) of EMA 2004 obligates the Minister for environment in consultation with relevant Ministries to initiate discussions with relevant authorities of neighboring countries on environmental management programs and measures to avoid and minimize transboundary environmental impacts. Section 180 (2) of EMA 2004 requires the Director of environment in collaboration with sector Ministries or government agencies to initiate and implement transboundary environmental management programs with neighboring countries.

10.5.10 Mr. Mwamsojo also briefed the meeting on the administrative and institutional arrangements in as far as EIA application in Tanzania is concerned. He expounded on the roles of the National Environmental Advisory Committee, the Directorate of Environment, National Environment Management Council, sector environmental sections and Regional Administration.

10.5.11 Mr. Mwamsojo also expounded on the role of the Local Government Authorities as stated in Section 37 (2) of EMA particularly in regard to designation of environmental officers, public officers and standing committees responsible for environment to perform functions provided in relevant subsections of the Act.

10.5.12 Mr. Mwamsojo informed the meeting that Tanzania has so far made some impressive achievements in as far as EIA in concerned. He briefed the meeting on key indicators of success that include the following: Preparation of an EIA training Manual by NEMC, recruitment of about 15 EIA

trainers, institutionalization of EIA system in 8 District planning process, building of EIA knowledge base that is expanding to include GIS and modeling methods; and membership to international associations such as EAAIA, IAIA, and CIANEA. He also noted that EMA 2004 has made the EIA process more vigilant and more projects are registering for EIA. He also noted that awareness on the importance of EIA is growing fast and the quality and number of experts has increased considerably in the recent past. He also noted that EIA courses are now being offered in Universities and Colleges in Tanzania.

10.5.13 Mr. Mwamsojo also briefed the meeting on the constraints in the implementation of EIA in Tanzania. He noted that although legal requirements for EIA execution have partly been solved, qualified and experienced practitioners are still few in Tanzania. There are also limitations of knowledge on EIA methods and a rush of inadequately qualified persons to the profession resulting in poor quality EIA Reports. There is also low level of understanding on the part of developers and general public on the EIA. Another constraint is lack of sectoral guidelines and inadequate environmental information and standards. Also, most of the EIA reports have not been adequately applied and there has been limitation in the scoping exercise since the affected community is not involved effectively. Mr. Mwamsojo noted that the capacity of NEMC to facilitate the EIA process is weak. Plans are underway to develop environmental standards including environmental monitoring and audit manuals and hand books. Efforts will also be made to establish a register of EIA experts/practitioners in Tanzania and to establish a local association for EIA experts in Tanzania.

10.5.14 During the discussions that followed the above presentation, participants wanted to know whether Tanzania has established a schedule of projects that may or may not be subjected to EIA. It was clarified that schedule no. 3 in EIA regulation and schedule no. 1 in the Act provides a long but not very comprehensive list of activities that must be subjected to EIA. The main weakness is that the list does not provide an indication on the scales of the projects. However, information related to the magnitude and scale of projects is usually captured in the application form that allows decision to be made whether a full or preliminary EIA should be undertaken. This decision is made by NEMC based on the information provided by the applicant. In regard to the application of EIA in educational institutions, it was noted that framework EIA guidelines have been put in place in Tanzania to support projects that may not be fully subjected to EIA all the time such as schools.

10.5.15 Participants also wanted to know whether there is a structured mechanism for establishing communication with other countries in regard to projects that may have transboundary impacts e.g. damming of an international river. Mr. Mwamsojo noted that during the screening stage, NEMC can establish the location of the site of the project and if it located in an area with shared ecosystems, it is possible to determine the potential transboundary impacts, although the process for determination of the scale of the transboundary impact is very subjective. NEMC officers then inform the Minister who in turn is required to inform the country that will be affected.

10.5.16 Mr. Mbegera noted that although there is no obligation for countries to inform each on the transboundary impacts that are due to projects been undertaken in their countries, various conventions have binding provisions that need to be respected and it is prudent to inform the neighboring country on any anticipated transboundary impact. The TOR of the EIA must also state the transboundary nature of the problem. He also noted that for East African countries, namely Kenya, Tanzania and Uganda, this issue could be discussed under the auspices of the East Africa Community EIA Guidelines for shared ecosystems.

10.5.17 Dr. Tarr noted that there are few regional agreements that specifically require negotiation with downstream countries. Countries, however, in most cases do not raise objections. He also noted that many transboundary impacts are not detected because they are not stated in the TOR or in EIA Report.

10.5.18 Mr. Waruinge requested the participants to find out how the Terms of Reference of the Regional EIA Consultant could be amended to include recommendations on the need to develop

regional guidelines. He emphasized the need to factor in coastal and marine environment noting that there is a need for mechanisms to discuss transboundary environmental issues that have transboundary impacts. Reacting to this suggestion, the participants noted the importance political goodwill to deal with transboundary impacts and it was suggested that the report of the consultant should have some recommendations on how to establish regional mechanisms for dealing with transboundary impacts.

10.5.19 Dr. Tarr informed the meeting that a book on transboundary impact assessment and case-studies prepared under the support of US Law Institute, Tokyo University and UNDP will be launched in Washington DC in October 2006. He promised to distribute copies of the book to the members of the EIA Task Force.

## **10.6 Mozambique**

10.6.1 Dr. Inácio Bucuane, the National Director of EIA at the Ministry for Coordination of Environmental Affairs (MICOA), Mozambique made a presentation on the legal and institutional arrangements related to EIA in Mozambique. He briefed the meeting on various regulations that have influenced the EIA process in Mozambique.

10.6.2 Dr. Bucuane also briefed the meeting on the key articles of the environmental law that define the requirements for the preparation of EIA reports. Dr. Bucuane also briefed the meeting on the requirements in regard to consultation with the local authorities and communities. He noted that projects may be approved at either national or provincial level and the fee paid is equivalent to 1% of the total cost of the project.

10.6.3 Dr. Bucuane also briefed the meeting on the EIA process in Mozambique and in particular the role of EIA Department and Investment Promotion Center. Depending on the scale of the project and the potential impacts, these agencies may request either full EIA or just a simplified EIA to be undertaken. Exemption can be granted by either the Provincial Directorate or National Directorate for EIA.

10.6.4 Dr. Bucuane also briefed the meeting on the different types of environmental licenses that are issued in Mozambique. Category A license is issued by either the Ministry for Coordination of Environmental Affairs (MICOA) or the National Directorate for EIA. Category B License is issued by Provincial Directorate or National Directorate for EIA.

10.6.5 During discussions that followed the above presentation, it was clarified that the law in Mozambique also makes provision for registration of EIA experts who are allowed to undertake the EIA Study and prepare the report. Registration is either individual or corporate. The international firms are required to be linked to the local firms that are registered to carry out EIA in Mozambique. In regard to the criteria for deciding who among the Minister or the Director signs the EIA Permit, it was noted that this is governed by the total budget of the project. The Minister signs EIA Permits for projects whose budget is greater than 1 million US \$ and the Director signs for those projects whose budget is less than the above figure. Although the law states that EIA Permit is the first license to be issued in Mozambique, this is usually not the practice. There is lack of coordination and other licenses are issued before the EIA license. However, there are plans to improve coordination at both provincial and national levels.

## **10.7 Seychelles**

10.7.1 Mr. Joseph Rath, Director of EIA (EIA) Section, Pollution Control and Environmental Impacts Division in the Ministry of Environment and Natural Resources, Seychelles, made a presentation on EIA legislation and processes in the Seychelles. Mr. Rath started by outlining policies and legal framework that govern EIA in Seychelles and expounded on the objective of the Environmental

Protection Act (EPA-1994). He briefed the meeting on the EIA process and procedures as defined in Section 15 of the Environmental Protection Act (Act 9 of 1994), and in the Environment Protection (Impacts Assessment) Regulations of 1996.

10.7.2 Mr. Rath informed the meeting that Section 15 of the EPA 1994 provided for the enactment of the first generation of EIA regulations in Seychelles. Whilst the EPA 1994 provided the framework for the establishment of procedures and criteria for implementation and administration of EIA, the regulations were only translated into law after the EPA 1994 had been endorsed by the National Assembly.

10.7.3 Mr. Rath informed the meeting that Environment Protection (Impact Assessment) Regulations 1996 (EIA regulations) came into force on the 26th May 1996. Mr. Rath also briefed the meeting on the institutional Framework noting that EPA and EIA regulations are administered by the Department of Environment in collaboration with Town and Country Planning Authority.

10.7.4 Mr. Rath also informed the meeting that the EPA and EIA regulations in Seychelles also recognize transboundary impact assessment. He however noted that there are very few transboundary risks in the Seychelles due to the islands' isolation. However, in view of the islands location on a major international oil transportation route, there are risks of oil spills occurring in the vicinity of the Seychelles. The other risks are related to importation of alien vegetation and animals, introduction of foreign plant pests and diseases and illegal export of plant and animal products.

10.7.5 During discussions that followed the above presentation, participants requested for clarification on the role of DOE and the Planning Authority in regard to issuance of EIA license. It was noted that DOE issues authorization and the Planning Authority (DCPA) issues the planning license. It was noted that this could make the EIA Process too bureaucratic and lengthy. It was noted that this arrangement avoids duplication of efforts of the DOE and the Division of Planning. In order to avoid delays, there are timeframes within which decisions have to be made by the concerned parties.

10.7.6 Mr. Mwamsojo requested for information on whether there is a possibility of setting up a harmonized approach in the WIO region and whether Seychelles has a pragmatic Strategic Environmental Assessment procedure for transboundary impacts. Mr. Rath responding to this question noted that Transboundary impacts are not covered under the EPA and EIA regulations. However, a Technical Committee has been mandated to deal with transboundary issues. Although, there is no formal SEA, some aspects of SEA are taken onboard by the Technical Committee.

10.7.7 There was also a question concerning the impacts of an international Airport built in Seychelles in 1972. It was however noted that when EIA came into force it was not retrospective and in this regard the impacts of the airport were not assessed since the airport was done long before the EIA regulations came into force. However, sampling and monitoring activities have been going on around the airport but there are no specifically intended to establish the impact of the airport. However, expansion and renovation of the airport has to be subjected to an EIA Process.

## **10.8 South Africa**

10.8.1 Dr. Peter Tarr, the Executive-Director of Southern African Institute for Environmental Assessment (SAIEA) based in Namibia, made a presentation on the EIA Process in South Africa expounding on the policy and legislative framework. He provided an overview of existing Government policies and legislation with regard to EIA particularly the Environmental Management Policy of July 1997 that set out a vision, the principles, strategic goals and objectives, issues of governance and an implementation programme.

10.8.2 Dr. Tarr briefed the meeting on the provisions of the South African Constitution noting that the Constitution allocates legislative and administrative functions to a wide range of government agencies

responsible for environmental management. Environmental provisions are included in the Bill of Rights in Chapter 2 of the Constitution of South Africa Act (No. 108 of 1996).

10.8.3 Dr. Tarr also briefed the meeting on the National Environmental Management Act (NEMA No. 107 of 1998) noting that the Act was promulgated to give effect to the White Paper on Environmental Management Policy. The Act repealed most of the Environment Conservation Act (No. 73 of 1989). NEMA has been amended on two occasions by the National Environmental Management Amendment Act of 2003. The National Environmental Management Second Amendment Act, No 8 of 2004, which came into operation on 7th January 2005 amended section 24 of NEMA. New EIA Regulations were made in April 2006. The regulations list activities which require a Basic Assessment Report or EIA and steps required to produce both.

10.8.4 Dr. Tarr also briefed the meeting on the institutional framework in South Africa noting that the Department of Environmental Affairs and Tourism (DEAT) is the lead agent for environmental management in South Africa. He briefed the meeting on the responsibilities of DEAT. He also noted that EIA is the responsibility of both national and provincial government institutions. However, policy formulation and coordination takes place at national level, while approval of EIAs for most development proposals has been devolved to the provinces. The EIA administration function in most provinces is located within portfolios dealing with natural resource management, tourism and conservation.

10.8.5 Dr. Tarr also briefed the meeting on the role of the National Environmental Advisory Forum (NEAF) established in 2005 to advise the Minister on any matter concerning environmental management and governance and also inform the Minister about the views of the stakeholders. Dr. Tarr also briefed the meeting on the role of the Committee for Environmental Co-ordination (CEC) that promotes the integration and coordination of environmental functions by the relevant organs of state including promoting the objectives of environmental management plans. However, CEC has not yet been constituted.

10.8.6 Dr. Tarr also noted that there are two types of EIA in South Africa; a basic EIA (scoping) and full EIA. He briefed the meeting on the functions of relevant Authorities in regard to the processing of EIA Reports. He also expounded on the contents of basic EIA reports that must contain all the information that is necessary for the competent authority to reach a decision.

10.8.7 Dr. Tarr informed the meeting that South Africa has had challenges in the processing of EIA in view of limited human resources capacity in the country. This has meant that most of the EIA reviews are made by external reviewers. Also, due to limited capacity in South Africa, the EIA process is not followed as is required by the law and this has meant that the government has lost several review cases. He also informed the meeting that there is a system of appealing against decisions made and the law in South Africa also provides for the registration of EIA Practitioners.

10.8.8 During discussions that followed the above presentation, participants were interested in knowing who caters for the costs of administering EIA in South Africa. It was noted that the project proponents bear the costs. However, the government uses its own resources to organize for the review of EIA Reports. Public servants who are involved in the review are usually paid by the government and not by the project proponents. The meeting was also informed that communities can also claim legal aid from the government to take the matters related to EIA to court.

## **10.9 Recapitulation**

10.9.1 Following the above presentations by the representatives of participating countries, Mr. Dixon Waruinge, Programme Officer in-charge of the UNEP/Nairobi Convention recapped the main outcomes of the presentations and especially how the new information that has emerged following

country presentations will impact on the work programme of UNEP/Nairobi Convention and the WIO-LaB Project.

10.9.2 Mr. Waruinge noted that since the Nairobi Convention started in 1985, there has not been follow-up on the status of EIA applications in participating countries. He noted that from the presentations made, most of the countries now have elaborate EIA systems and institutions. The major challenge seems to be limited capacity to deal with the provisions of various EIA regulations and Acts of Parliament.

10.9.3 Mr. Waruinge noted that various Acts anticipate projects with transboundary consequences and how cross border EIA could be undertaken. However, countries have not put in place mechanisms of carrying out cross border EIA. He noted that some of the countries have SEA but they do not have mechanisms of dealing with programmes that have transboundary effects. In this regard, there is a need for establishment of a framework for transboundary SEA in the region, to deal in particular with large programmes.

10.9.4 Mr. Waruinge also noted that countries have demonstrated that EIA is not static and in most countries they have been amendments of EIA Regulations. In this regard, he observed that it may not be necessary to develop Regional EIA Guidelines. Instead the effort should be focused towards the development of Strategic Environmental Assessment (SEA) Guidelines that could be applied across the WIO region. He noted that this will be an area where the WIO-LaB Project could really add value to the existing EIA processes and frameworks in the WIO region.

10.9.5 Mr. Waruinge noted that it would be important to establish modalities of carrying out Transboundary SEA in the region and also to define specific activities in the WIO Region that would be subjected to SEA. He encouraged the meeting to also explore mechanisms for transboundary SEA implementation in the WIO region. He also noted that the WIO-LaB Project should help countries in the WIO Region to establish mechanisms of SEA application if this need is clearly demonstrated by the participating countries.

10.9.6 Mr. Waruinge also noted the need to involve other key stakeholders in the WIO Region such as World Wildlife Fund (WWF) and International Conservation Union (IUCN) in the development of specific SEA Regional Guidelines for specific activities such as those for oil and gas exploration and drilling.

10.9.7 Mr. Waruinge also observed the need to harmonize various EIA approaches in the WIO Region in view of the fact that various countries have different approaches and requirements. In this regard, he noted that it would be important to clearly establish the existing gaps and loopholes in the EIA regulations and processes in each of the participating countries with a view to identifying commonalities and discrepancies that should be rectified within the existing regional economic blocks such as East Africa Community (EAC), Southern Africa Development Community (SADC), Common Market for Eastern and Southern Africa (COMESA), etc. He noted that, from the presentations made by the representatives of participating countries, each country is very clear on what they want to do with their national EIA Guidelines and institutional frameworks and the WIO-LaB Project should establish areas where it can add- value.

10.9.8 Following the above summary presentation, the delegates, with appreciation took note of the various EIA approaches and regulations that are applied by the Contracting Parties to the UNEP/Nairobi Convention and called for the effective implementation of those approaches, regulations and/or legislation in order to ensure protection and management of the coastal and marine environment in the Western Indian Ocean (WIO) Region. The delegates also recommended that the development of common SEA regional approaches for dealing with transboundary environmental impacts should be pursued under the auspices of UNEP/WIO-LaB Project.

## **11. DELIBERATIONS ON NEED AND OPPORTUNITIES FOR ALIGNMENT OF EIA FRAMEWORKS IN THE REGION**

11.1 The Chair, Ms. Chantal Andrianarivo introduced the above mentioned agenda item and invited the UNEP/WIO-LaB Project Manager, Dr. Peter Scheren to brief the meeting on what was supposed to be accomplished during this agenda item. Dr. Scheren then invited the EIA Consultant Dr. Peter Tarr to lead the discussions on the above agenda item.

11.2 Dr. Peter Tarr started by noting that in order to accomplish his assignment as detailed in the Terms of Reference, all representatives of participating countries should strive to provide him with the relevant details. Dr. Tarr presented a draft questionnaire that will be used to collect the required information. He took the delegates through each and every section of the questionnaire and provided indications on the information that the respondents would be expected to provide. He emphasized the need for the delegates to provide truthful information regarding what exists in their countries. The delegates reviewed the questionnaire and accepted it with amendments that were taken onboard by the Consultant. The consultant agreed to distribute the questionnaire to the delegates. Dr. Tarr noted that the deadline for the completion of the questionnaire is 24th August 2006.

11.3 Dr. Tarr also briefed the delegates on the key outputs of his assignment as detailed in the Terms of Reference. These include (1) A Regional Report on the review of the EIA approaches in the WIO region, (2) Regional EIA Guidelines for Assessment of Transboundary impacts in the WIO Region, (3) Draft text on the EIA for the revised Article 13 of Nairobi Convention, and (4) Draft text on the EIA for Article 13 of the land-based protocol of Nairobi Convention.

11.4 In regard to output 1: Regional Report on the review of the EIA approaches in the region, it was agreed that countries will provide all the required information to the consultant who will then draft the report. Dr. Tarr took the delegates through a discussion on the anticipated contents of the review report. It was agreed that the report will have country chapters and as well as a regional synthesis that establishes gaps and contradictions and/or similarities. The Report will also include a review of the commonalities of existing institutional frameworks. The delegates agreed on the contents of the report including the appearance in its final form as well as the target audience.

11.5 In regard to the second output: Regional EIA Guidelines for the Assessment of Transboundary impacts in the WIO Region; it was emphasized that the focus will be on issues that have transboundary impacts (e.g. oil and gas exploration and drilling). The Report should also focus on the assessment of key activities that are likely to result in transboundary impacts in the future. The output will also provide an overview of the existing guidelines including good management practices and how they may be useful in the WIO Region. Attention will also be focused on the assessment of most sensitive/valuable habitats in the WIO Region. The delegates reviewed the anticipated contents of the report and agreed on the key items that need to be included in the report. They also agreed on the form and contents of the report.

11.6 In regard to the third and fourth outputs i.e. the draft text on the EIA for the revised Article 13 of Nairobi Convention, and the draft text on the EIA for Article 13 of the land-based protocol of Nairobi Convention, it was noted that the proposed text will be considered by the Conference of Contracting Parties to the Nairobi Convention.

11.7 Followed extensive deliberations on the specific needs and opportunities for alignment of EIA frameworks in the Western Indian Ocean region, particularly as it concerns the transboundary and cumulative impacts of development projects, the delegates confirmed the need to have common EIA approaches in the region and agreed to support the Regional Task Force and the Consultant in their assignments.

## **12. CONSIDERATION AND REVIEW OF EXISTING REGIONAL LEGISLATIVE FRAMEWORK FOR EIA AS ESTABLISHED BY THE NAIROBI CONVENTION**

12.1 This agenda item was partly covered during the presentation made by Mr. Dixon Waruinge of Nairobi Convention during the first day of the meeting. The appropriate section of this report presents what aspired during that presentation.

12.2 Following the presentation made earlier by Mr. Dixon Waruinge, the Programme Officer responsible for UNEP Nairobi Convention, the delegates took note of the provisions of the Nairobi Convention (including its new Land-based Sources/Activities Protocol) regarding the development and application of EIA guidelines and called upon the National Focal Institutions of the Contracting Parties to spearhead full implementation of the requirements of the convention.

12.3 Furthermore, it was recommended that the specific clauses of the Convention and its Protocol be reviewed by the Regional EIA Task Force through the assistance of the Regional EIA Expert. The Regional EIA Expert, in this regard, should work in consultation with the Regional Legal Expert for the WIO-LaB Project, in the preparation of draft revised clauses for the Convention. The clauses should subsequently be presented for review by both the Regional EIA Task Force and the Regional Legal and Technical Review Task Force.

## **13. CONSIDERATION OF THE WORK PLAN FOR THE EIA TASK FORCE IN THE PERIOD 2006-2007**

13.1 The Chair, Ms. Chantal Andrianarivo introduced the above mentioned agenda item and invited the UNEP/WIO-LaB Project Manager, Dr. Peter Scheren to brief the meeting on the work plan for the implementation of the EIA Component of the WIO-LaB Project. Dr. Scheren made a short introduction and invited the EIA Consultant to present the workplan to the Task Force.

13.2 During the discussions that followed the above, there were some concerns on the timelines for the achievement of the agreed outputs and it was noted the timelines are quite tight. It was however emphasized that the Task Force has to stick to the suggested timelines if the deliverables will have to be submitted to the Nairobi Convention Conference of Contracting Parties (COP) that is scheduled for 2007.

13.3 Dr. Scheren noted that there might be a need for national review of some of the outputs and arrangements will be made with the Focal Points institutions to facilitating this review. The Focal Points will be required to coordinate activities at national level and urged delegates to work very closely with their national focal points when it comes to organization of national consultative meetings. The WIO-LaB Project will provide all countries with appropriate support in this regard.

13.4 Following the discussions, the delegates considered and approved the work plan for the implementation of the EIA (EIA) Component of the WIO-LaB Project as well as the work plan for the delivery of outputs of the Regional EIA Consultancy.

## **14. ADOPTION OF THE DECISIONS AND RECOMMENDATIONS OF THE MEETING**

14.1 The Chair, Ms. Chantal Adrianarivo introduced the above mentioned agenda item and invited the Rapporteur Mr. Kumar Heeramun of Mauritius to present the decisions and recommendations of



the meeting. The Rapporteur presented the draft decisions and recommendations of the meeting and requested delegates to verify them.

14.2 Following discussions, delegates approved with amendments the decisions and recommendations of the meeting as presented in the executive summary section of this report. Copies of the same were distributed to all delegates for the purpose of briefing their countries on the outcomes of the meeting.

## **15. ADMINISTRATIVE MATTERS**

15.1 The Chair, Ms. Chantal Andrianarivo introduced the above mentioned agenda item and invited the UNEP/WIO-LaB Project Manager, Dr. Peter Scheren to brief the meeting on other pertinent matters related to the organization and implementation of the agreed activities.

15.2 Dr. Scheren informed the meeting that the venue of the next meeting of the Regional Task Force is scheduled to be held in December 2006. However, the venue of the meeting has not been set and countries will be requested to host the meeting at a later date.

## **16. CLOSURE OF THE MEETING**

16.1 The Chair, Ms. Chantal Andrianarivo thanked delegates for their cooperation throughout the meeting and also for their effective participation. She looked forward to meeting the delegates during the second regional meeting that is scheduled to be held in December 2006. Following the above short remarks, the Chair invited the representative of the host country, Dr. Policarpo Napica who is also the National Director for Environment in the Ministry for Coordination of Environmental Affairs (MICOA) of Mozambique to make some closing remarks.

16.2 Dr. Policarpo Napica in his closing remarks apologized for not been able to attend all the sessions of the meeting. He however noted that meeting provided a good opportunity for EIA experts to review and exchange lessons in regard to the implementation and application of EIA in the region. He noted that countries in the WIO Region are at different stages of implementing EIA and emphasized on the need for capacity-building and cooperation with international agencies. He noted that there is also a need to ensure sustainability of the natural resources of the Western Indian Ocean through establishment of effective management approaches.

16.3 Dr. Napica finally requested delegates to seriously consider the decisions and recommendations of the meeting and wished all delegates a safe journey back to their respective countries.

## **17. ANY OTHER BUSINESS**

17.1 The Chair, Ms. Chantal Andrianarivo requested delegates to raise any other matter that they would like to discuss during the above mentioned agenda item. However, there was no any other business and the Chair declared the meeting closed at 4 p.m. on 26<sup>th</sup> July 2006.

## **ANNEX 1: AGENDA OF THE MEETING**

### **WIO-LaB Project Regional Task Force on the Environmental Impact (EIA) Assessment Regional Meeting**

Maputo, Mozambique, 25<sup>th</sup> to 26<sup>th</sup> July 2006

#### **AGENDA**

1. Opening of the meeting
  - Introduction of the members of the Regional Task Force on EIA.
  - Welcome remarks by the Project Manager, UNEP-GEF WIO-LaB Project.
  - Welcome remarks by the Programme Officer, UNEP/Nairobi Convention.
  - Welcome remarks by the officials of the Ministry for the Coordination of Environmental Affairs (MICOA), Mozambique
2. Organization of the meeting and election of officers (Chair and Rapporteur).
3. Consideration and adoption of the Agenda.
4. Briefing on the Abidjan and Nairobi Conventions
5. Briefing on the general objectives and activities of the WIO-LaB Project.
6. Briefing and discussion on the objectives of the EIA Component of the WIO-LaB Project.
7. Deliberations on the Terms of Reference (TOR) of the Regional EIA Task Force.
8. Deliberations on the Terms of Reference (TOR) of the Regional EIA Expert.
9. Briefing on the Eastern African Association for Impact Assessment
10. Country briefings on the existing EIA frameworks and processes in participating countries.
11. Country briefings on the existing EIA frameworks and processes in participating countries (continued).
12. Deliberations on need and opportunities for alignment of EIA frameworks in the region, in particular as it concerns potential transboundary and cumulative impacts of projects and developments.
13. Consideration and review of existing regional legislative framework for EIA as established by the Nairobi Convention.
14. Consideration of the Work Plan for the EIA Task Force in the period 2006-2007.
15. Adoption of the Decisions and Recommendations of the meeting.
16. Administrative matters.
17. Any Other Business.
18. Closure of the meeting.

## ANNEX 2: LIST OF PARTICIPANTS

ENVIRONMENTAL IMPACT ASSESSMENT INCEPTION MEETING  
(Maputo, Mozambique, 25<sup>th</sup> to 26<sup>th</sup> July 2006)

## Inception Meeting

## List of Participants

	Country	Participant
	COMOROS	<p><b>1. Mr. Ismael Bachirou</b>            Chef de service contrôle et réglementation            BP 983, Moroni            The Comoros            Tel: (269) 736388            mobile(269) 331210            Mail: ismael_269@yahoo.com</p>
		<p><b>2. Ms. Fatouma Ali Abdallah</b>            Chef de Department            Direction National l'Environnement            Point Focal de la Convention de Nairobi            BP 860, Moroni,            The Comoros            Tel: (+269) 756029            Fax: (+269) 736388            Email 1: alfa@snpt.km            Email 2 : Fatouma_ay@yahoo.fr            Email 3 : alfa@comores telecom.km</p>
	KENYA	<p><b>3. Mr. Maurice Mbegera</b>            Director            Compliance and Enforcement Department            National Environment Management Authority            P.O. Box 67839-00200            Nairobi, Kenya            Tel: +254 20 605522/7            Email 1: comenforce@nema.go.ke            Email 2:dgnema@swiftkenya.com</p> <p><b>4. Mr. Zephania Ouma</b>            Senior EIA officer            National Environment Management Authority            P.O. Box 67839-00200            Nairobi, Kenya            Tel: +254 20 605522/7            Email 1: zouma@nema.go.ke            Email 2: comenforce@nema.go.ke</p>

	<b>Country</b>	<b>Participant</b>
	MADAGASCAR	<p><b>5. Mr. Heritiana Ramiaramanana</b> Office National pour l'Environnement, Plan National d'Action Environnemental (PNAE) BP 822 Antaninarenina 101 Antananarivo, Madagascar Tel : 261 20 22 259 99 Fax : 261 20 22 306 93 E mail: heritiana@pnae.mg</p> <p><b>6. Ms. Andrianarivo Chantal</b> NFP for the Nairobi Convention Chef de Cellule Recherche et Biodiversité Association Nationale pour la Gestion Des Aires Protégées B.P. 1424 Antananarivo 101, Madagascar Tel: (+261) 20 22415 Fax: (+261) 20 22439 Email 1: val@dts.mg Email 2: val@angap.mg Email 3: andrianarivo_chantal@mel.wanadoo.mg</p>
	MAURITIUS	<p><b>7. Mr. Keshore Kumar Heeramun</b> Ministry of Environment and National Development Unit Port Louis, Mauritius Tel : (230) 2113556 Mobile : (230) 9189252 Fax: (230) 2126671 Email: keheeramun@mail.gov.mu</p> <p><b>8. Mrs. Doolaree Boodhun</b> Ministry of Environment and National Development Unit Port Louis, Mauritius Tel: 230 212 43 85 Fax: 230 212 66 71 Email: dboodhun@mail.gov.mu</p>

	<b>Country</b>	<b>Participant</b>
	MOZAMBIQUE	<p><b>9. Mr. Inacio Bucuane</b>  National Directorate for Environmental Impact Assessment  Ministry for Coordination of Environmental Affairs (MICOA)  P.O Box 2020  Rue de Kassuende, 167  Maputo, Mozambique  Tel: (+258 1) 9258 21 465 141  Mobile: +9258 82 4336640  Fax: (+258 1) 9258 21 466245  Email: inacio.bucuane@micoa.gov.mz</p> <p><b>10. Mr. Felicio Fernando</b>  National Directorate for Environmental Impact Assessment  Ministry for Coordination of Environmental Affairs (MICOA)  P.O Box 2020  Maputo, Mozambique  Tel: (+258 1) 0258 21465141/258 824581760  Mobile: 025 8824581760  Fax: (+258 1) 465141  Email 1: felicio23@hotmail.com  Email 2: Felicio.fernando@micoa.gov.mz</p> <p><b>11. Mr. Policarpo Napica</b>  National Director of Environments  Ministry of the Coordination of Environmental Affairs (MICOA)  P.O Box 2020  Rue de Kassuende, 167  Maputo, Mozambique  Tel: (+258 1) 466407  Fax: (+258 1) 465849  E-mail: p.napica@micoa.gov.mz</p> <p><b>12. Mr. Anselmo Gaspar</b>  Ministry of the Coordination of Environmental Affairs (MICOA)  P.O Box 2020  Rue de Kassuende, 167  Maputo, Mozambique  Email : anselmogas@yahoo.com.br</p>

	<b>Country</b>	<b>Participant</b>
	SEYCHELLES	<p><b>13. Mr. Joseph Rath</b>  Environmental Impact Assessment Section  Pollution Control and Environmental Impacts Division  Department of Environment  Ministry of Environment and Natural Resources  P.O. Box 445  Botanical Gardens  Mahe, Seychelles  Tel: +248 67 05 00  Fax: +248 61 06 48  Email: eia@env.gov.sc</p>
	TANZANIA	<p><b>14. Mr. Danford Mwaipopo</b>  Senior Environmental Officer  National Environment Management Council  (NEMC)  P.O. Box 63154  Dar es Salaam, Tanzania  Tel: 255 713 421397(office)  Mobile: 255-713 421 397  Fax: 255-22-2111597  Email: dmwaipopo@yahoo.co.uk</p> <p><b>15. Mr. Godlove John Mwamsojo</b>  Senior Environmental Officer  National Environment Management Council  (NEMC)  P.O.Box 63154  Dar es Salaam, Tanzania  Tel: 255 22 2134603 (office)  Fax: 255-22-2111597  Mobile:255-713-215635,  Email:gmwamsojo@yahoo.com</p>
EIA Expert		<p><b>16. Dr Peter Tarr</b>  Southern African Institute for Environmental  Assessment  P.O. Box 6322  Ausspannplatz  Windhoek, Namibia  Tel: +264 61 220579  Fax: +264 61 259183  Email address: peter.tarr@saiea.com</p>
	UNEP Nairobi Convention	<p><b>17. Mr. Dixon Waruinge</b>  Programme Officer  Regional Seas (Nairobi and Abidjan Conventions)  Division of Environmental Conventions, UNEP  P.O Box 47074  Nairobi, Kenya  Tel: (+254) 020-623130  Fax: (+254) 020-623130  Email: dixon.waruinge@unep.org</p>

	<b>Country</b>	<b>Participant</b>
	UNEP-GEF WIO-LaB Project Management Unit	<p><b>18. Dr. Peter Scheren</b>  Project Manager  WIO-LaB Project Management Unit  United Nations Environment Programme (UNEP)  P.O Box 47074  Nairobi, Kenya  Tel: (+254) 020-624612  Fax: (+254) 020-623928  Email: Peter.scheren@unep.org</p> <p><b>19. Dr. Johnson U. Kitheka</b>  Project Scientist  WIO-LaB Project Management Unit  United Nations Environment Programme (UNEP)  P.O Box 47074  Nairobi, Kenya  Tel: (+254) 020-624612  Mobile: (+254) 733-777293  Fax: (+254) 020-623928  Email: johnson.kitheka@unep.org</p>

**ANNEX 3: LIST OF DOCUMENTS**

**Environmental Impact Assessment (EIA) Regional Task Force  
Regional Meeting**

**LIST OF DOCUMENTS**

**Working Documents**

UNEP/GEF/WIOLAB/EIA.1/1	Provisional Agenda
UNEP/GEF/WIOLAB/EIA.1/2	Provisional List of Participants
UNEP/GEF/WIOLAB/EIA.1/3	List of Documents
UNEP/GEF/WIOLAB/EIA.1/4	Terms of Reference of the Regional EIA Task Force.
UNEP/GEF/WIOLAB/EIA.1/5	Terms of Reference of the Regional EIA Expert.
UNEP/GEF/WIOLAB/EIA.1/6	Guidelines for presentations on EIA by country delegates.
UNEP/GEF/WIOLAB/EIA.1/7	Work Plan for implementation of the EIA Component of the WIO-LaB Project.
UNEP/GEF/WIOLAB/EIA.1/8	Decisions and recommendations of the inception meeting

**Information Documents**

UNEP/GEF/WIOLAB/EIA.1/INF.1	Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region
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#### **ANNEX 4: TERMS OF REFERENCE OF THE REGIONAL TASK FORCE ON ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

The Project entitled “*Addressing land-based activities in the Western Indian Ocean*” (shortly referred to as “WIO-LaB”) addresses some of the major environmental problems and issues related to the degradation of the marine and coastal environment due to land-based activities in the Western Indian Ocean (WIO) region. The Project is implemented by the United Nations Environment Programme (UNEP), and is financed by the Global Environment Facility (GEF) and the Norwegian Government.

The WIO-LaB Project represents a strong partnership between countries in the WIO region, namely Kenya, Tanzania, Mozambique, South Africa, Madagascar, Seychelles, Comoros and Mauritius. The Project has three main objectives: 1) Reduce stress to the ecosystem by improving water and sediment quality; 2) Strengthen regional legal basis for preventing land-based sources of pollution; and 3) Develop regional capacity and strengthen institutions for sustainable, less polluting development. The Project is designed to serve as a demonstration project for the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA/LBA).

As part of one of the activities to fulfill the second objective of the WIO-LaB Project, the Project is expected to review, establish and implement effective Environmental Impact Assessment (EIA) processes for the region, in particular as it concerns transboundary environmental issues. As part of a strategy to achieve this objective, WIO-LaB Project will establish a Regional EIA Task Force to spearhead the review of national EIA policies, regulations, procedures and institutional frameworks, and develop a set of Regional Guidelines on EIA for the WIO region. The Regional EIA Task Force will work in close liaison with an International/Regional EIA Expert who will coordinate, guide and assist the Regional EIA Task Force on the review and development of common regional approaches on the application of EIA in the WIO Ocean region, including lessons learnt in the implementation of EIA.

The objectives of the EIA Component of the UNEP/WIO-LaB Project are (a) to facilitate the regional review of the policy, legal, regulatory and institutional frameworks governing EIA in the WIO Region with a view of establishing common approaches for dealing with transboundary environmental impacts in the coastal and marine environment sector; (b) establish regional mechanisms for exchange and sharing of lessons and experiences in regard to the application of EIA/SEA in the WIO Region and (c) promote the application of EIA/ SEA in order to enhance better management and protection of the coastal and marine environment in the WIO Region.

The Regional EIA Task Force would be charged with the following specific responsibilities.

##### **Duties and Responsibilities**

1. Provide data and information to the EIA Consultant who will review existing policy, regulatory and institutional frameworks and procedures for EIA in the project countries.
2. Identify needs and opportunities for alignment of EIA frameworks in the region, in particular as it concerns potential transboundary and cumulative impacts of projects and developments.
3. Provide advice with regard to the development of regional EIA guidelines.
4. Review and provide advice with regard to the assignment of the Regional EIA Expert recruited by the Project.
5. Review and approve the regional EIA guidelines as prepared by the Regional EIA Expert recruited by the Project.

6. Facilitate the national stakeholder's consultation process for review and domestication of the Regional EIA processes.
7. Establish a mechanism for undertaking Strategic Environmental Assessment in the region..
8. Review and approve specific clauses (and related annexes if appropriate) on EIA for inclusion in the revised Nairobi Convention and its Protocols, as prepared by the Regional EIA Expert.

## **ANNEX 5: TERMS OF REFERENCE OF THE REGIONAL EXPERT ON THE PREPARATION OF REGIONAL GUIDELINES ON EIA IN THE WIO REGION**

### **Background**

The Project entitled “*Addressing land-based activities in the Western Indian Ocean*” (shortly referred to as “WIO-LaB”) addresses some of the major environmental problems and issues related to the degradation of the marine and coastal environment due to land-based activities in the Western Indian Ocean (WIO) region. The Project is implemented by the United Nations Environment Programme (UNEP), and is financed by the Global Environment Facility (GEF) and the Norwegian Government.

The WIO-LaB Project represents a strong partnership between countries in the WIO region, namely Kenya, Tanzania, Mozambique, South Africa, Madagascar, Seychelles, Comoros and Mauritius. The Project has three main objectives: 1) Reduce stress to the ecosystem by improving water and sediment quality; 2) Strengthen regional legal basis for preventing land-based sources of pollution; and 3) Develop regional capacity and strengthen institutions for sustainable, less polluting development. The Project is designed to serve as a demonstration project for the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA/LBA).

As part of one of the activities to fulfill the second objective of the WIO-LaB Project, the Project is expected to review, establish and implement effective Environmental Impact Assessment (EIA) Guidelines for the region, in particular as it concerns transboundary environmental issues. As part of a strategy to achieve this objective, WIO-LaB Project will establish a Regional EIA Task Force to spearhead the review of national EIA policies, regulations, procedures and institutional frameworks, and develop a set of Regional Guidelines on EIA for the WIO region. The Regional EIA Task Force will work in close liaison with an International/Regional EIA Expert who will coordinate, guide and assist the Regional EIA Task Force on the review and development of common regional approaches on the application of EIA in the WIO Ocean region, including lessons learnt in the implementation of EIA.

The objectives of the EIA Component of the UNEP/WIO-LaB Project are (a) to facilitate the regional review of the policy, legal, regulatory and institutional frameworks governing EIA in the WIO Region with a view of establishing common approaches for dealing with transboundary environmental impacts in the coastal and marine environment sector; (b) establish regional mechanisms for exchange and sharing of lessons and experiences in regard to the application of EIA/SEA in the WIO Region and (c) promote the application of EIA/ SEA in order to enhance better management and protection of the coastal and marine environment in the WIO Region.

The International/Regional EIA Expert will work in close liaison with the Regional EIA Task Force and will coordinate, guide and assist the Regional EIA Task Force in the process of review and development of common regional approaches on the application of EIA in the WIO Ocean region, including lessons learnt in the implementation of EIA. The specific duties and responsibilities of the Regional Expert are presented in the following section.

## Duties and Responsibilities

Under the supervision of the WIO-LaB Project Manager, the Regional EIA Expert will undertake the following tasks:

- 1) Guide members of the Regional EIA Task Force in the compilation of data and information of National EIA policies, regulations, procedures and institutional arrangements in their countries, through through preparation of questionnaires.
- 2) Communicate with members of the Regional EIA Task Force in regard to the collection, compilation of data and information on the National EIA policies, regulations, procedures and institutional arrangements in their countries.
- 3) Review the existing EIA procedures in participating countries, partly based on information provided by members of the Regional EIA Task Force, with a view of establishing commonalities in approaches as well as lessons learnt in the implementation of EIA guidelines in participating countries.
- 4) Identify and review available secondary information and documentation on EIA guidelines, practices and policies in the participating countries in order to build on the information provided by the Task Force and establish the current status of EIA implementation in the WIO region.
- 5) Based on the information provided by members of the Regional EIA Task Force, review and/or analyze the existing policy, regulatory and institutional arrangements in the participating countries in regard to the application of EIA, in particular as it concerns impacts of a transboundary and/or cumulative nature.
- 6) Where appropriate, consult with UNEP, ESPOO, World Bank and other international, regional and national organizations in regard to the existing EIA practices, policies and lessons learnt from other projects and activities implemented under auspices of the above organizations.
- 7) Develop draft Regional Guidelines for EIA and SEA process for the assessment of tranboundary and/or cumulative environmental impacts, and suggest mechanisms that could be used to facilitate their adoption and implementation in participating countries.
- 8) Review the existing national and regional mechanisms that could be used to internalize the Regional EIA Guidelines, and establish factors that could jeopardize/compromise the domestication of these regional guidelines and approaches.
- 9) Prepare a draft Regional Report that includes the above mentioned issues with recommendations on the modalities of application of the common EIA approaches in the WIO Region, in addition to the following:
  - (a) An overview of existing procedures, policy, regulatory and institutional arrangements in the participating countries in regard to the EIA.
  - (b) Recommendations on the appropriate EIA approaches that could be adopted to deal with transboundary environmental issues, referring to the draft Regional Guidelines (as stipulated in point 7 above).
  - (c) Recommendations on the domestication process and reforms that are necessary for effective implementation of EIA in participating countries.
  - (d) Experiences and lessons learnt from projects on EIA application in the participating countries, as well as lessons learnt from other applicable approaches and projects worldwide.
- 10) In cooperation with the Regional Legal Expert for the WIO-LaB Project, develop a draft clause on Environmental Impact Assessment of the Nairobi Convention as well as for the new Protocol on Land-Based Sources and Activities (LBA), including relevant annexes where appropriate.

- 11) Present the draft Regional Report (as stipulated under point 9 above), Regional Guidelines for EIA (as stipulated under point 7), and Clauses for the Nairobi Convention and related LBA Protocol (as stipulated under point 10) to the Regional EIA Task Force for review and comments.
- 12) Based upon feedback received from the Regional EIA Task Force, finalize the Regional Report, Regional Guidelines for EIA, and Clauses for the Nairobi Convention and related LBA Protocol.

### Duration of the Assignment

The total duration of the assignment will be 2 months spread over a period of 8 months commencing August 2006. The assignment may involve limited travel to a number of participating countries including the WIO-LaB Project Management Unit based at UNEP Headquarters in Nairobi, Kenya.

### Outputs Expected

1. Regional Review Report on EIA approaches in the WIO Region.
2. Guidelines for EIA in the WIO Region (for assessment of transboundary impacts).
3. Draft revision of Article 13 (Environmental Impact Assessment) of the Nairobi Convention, including Clauses to the related Protocol on Land-Based Sources and Activities.

Timing of activities and outputs will be as follows:

Activity	Time frame
1. Start of assignment/signing of the contract	14 <sup>th</sup> July 2006
2. Offer facilitation services during the inception meeting of the EIA Task Force	26 <sup>th</sup> -27 <sup>th</sup> July 2006
3. Preparation of guidelines/questionnaires to be used by Task Force members	31 <sup>st</sup> July-18 <sup>th</sup> August 2006
4. Review of the progress and outputs of the national review process, preparation of draft Regional Report, EIA Guidelines and Clauses for the Nairobi Convention and its LBA Protocol	20 <sup>th</sup> August -15 <sup>th</sup> November 2006
5. Submission of the draft Regional Report, Regional EIA Guidelines and Clauses for the Nairobi Convention and its LBA Protocol	15 <sup>th</sup> November 2006
6. Present draft Regional Report, Regional EIA Guidelines and Clauses for the Nairobi Convention and its LBA Protocol to the Regional EIA Task Force	December 2006
7. Finalization of Regional Report, EIA Guidelines and Clauses for the Nairobi Convention and its LBA Protocol	1 December – 28 <sup>th</sup> February 2007
8. Submission of the final Regional Report, Regional EIA Guidelines and Clauses for the Nairobi Convention and its LBA Protocol	28 <sup>th</sup> February 2007
9. Present the final Regional Report, Regional EIA Guidelines and Clauses for the Nairobi Convention and its LBA Protocol to the Regional EIA Task Force	March 2007

### Academic qualification

The ideal candidate should possess at least an MSc degree in EIA or a related discipline.

### Work experience

The ideal candidate should possess at least:

- a) 10 years experience on the application of EIA for development projects in developing countries.

- b) Familiarity with the key institutions involved in EIA in the WIO region.
- c) Experience in working with UNEP and/or other UN Agencies will be an added advantage.

**Language/s requirements**

The ideal candidate should be competent in both written and spoken English. Knowledge of French will be an advantage.

**Salary and benefits**

The WIO-LaB Project will offer competitive salary package to the qualified candidate commensurate with experience and in accordance with United Nations rules and regulations governing remuneration.

## **ANNEX 6: GUIDELINES FOR PRESENTATIONS ON NATIONAL EIA POLICY, REGULATORY, PROCEDURAL AND INSTITUTIONAL FRAMEWORKS BY COUNTRY DELEGATES**

### **Background**

Within the context of the inception meeting of the Regional Task Force on EIA of the WIO-LaB Project, a regional stock-taking exercise will take place in order to establish the existing status with regard to EIA in the WIO region. As part of this stock-taking exercise, country delegates will be requested to make brief presentations on existing EIA policies, regulations, procedures and institutional frameworks in their respective countries.

### **Guidelines for presentations**

Presentations on existing EIA frameworks should be prepared along the following lines:

- **Policy and legislative framework:** Provide a brief overview of existing Government policies and legislation (acts, regulations) with regard to EIA in the country.
- **Institutional framework:** Provide an overview of the existing institutional framework with regard to EIA in the country. Which institutions (Authorities, Ministries, other Governmental bodies) or groups/committees thereof are responsible for:
  - Preparation of policies and legislation on EIA;
  - Preparation of guidelines and procedures on EIA application;
  - Enforcement of the application of EIA for development projects and initiatives;
  - Reviewing the adequacy and soundness of EIAs prepared by project proponents;
  - Discussions and negotiations with project proponents on mitigative and/or compensatory measures to be implemented.
  - Control over implementation of agreed mitigative and/or compensatory measures.
- **Procedural framework:** Provide an overview of existing procedures and guidelines with regard to EIA application in your country:
  - Outline the procedural steps to be undertaken.
  - Refer to any sector or region specific procedures and guidelines.
  - Outline in particular any existing procedures and guidelines for transboundary and cumulative impact assessment.

### **Supporting documentation**

Country delegates are requested to make available their presentations to the Regional EIA Task Force, for use in the regional review of EIA policy, regulatory, procedural and institutional frameworks. Delegates are also requested to provide copies of relevant supporting documentation, including:

- Copies of main Acts of Parliament and Regulations governing EIA applications;
- Copies of relevant EIA procedures and guidelines.

**ANNEX 7: WORKPLAN FOR THE IMPLEMENTATION OF THE EIA COMPONENT OF THE WIO-LaB PROJECT**

<b>Module 5 - Environmental Impact Assessment</b>												
Activities	2006											
	1	2	3	4	5	6	7	8	9	10	11	12
1 Identification of national delegates and international EIA expert												
2 Inception Meeting EIA Task Force												
3 National and regional EIA review												
4 Preparation of draft Regional EIA Guidelines												
5 Preparation of draft NC Clauses on EIA												
6 Regional workshop on EIA processes												
7 National level review of draft EIA Guidelines												
8 Finalisation of Regional Report on EIA												
9 Finalisation of Regional EIA Guidelines												
10 Finalisation of NC Clauses on EIA												
11 Workshop to endorse regional EIA guidelines and NC Clauses on EIA												