Southern African Development Community, African Regional Bodies

Protocol on Environmental Management for Sustainable Development

Legislation as at 18 August 2014

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Southern African Development Community

Protocol on Environmental Management for Sustainable Development

Published

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Preamble

We, the Heads of State and Government of:

The Republic of Angola

The Republic of Botswana

The Democratic Republic of Congo

The Kingdom of Lesotho

The Republic of Madagascar

The Republic of Malawi

The Republic of Mauritius

The Republic of Mozambique

The Republic of Namibia

The Republic of the Seychelles

The Republic of South Africa

The Kingdom of Swaziland

The United Republic of Tanzania

The Republic of Zambia

The Republic of Zimbabwe

Enjoined as Member States of the Southern African Development Community established in terms of the Treaty of the Southern African Development Community (hereinafter referred to as SADC Treaty);

Mindful of the principles and objectives of SADC as stated in Articles 4 and 5 of the SADC Treaty which guides our relations on cooperation and regional integration;

Mindful of the obligations of the Member States in other international treaties and principles of international law which govern their relations as sovereign States;

Considering Articles 21 and 22 of the SADC Treaty which provide for areas of cooperation and mandates Member States to conclude Protocols as may be necessary in each area of co-operation in order to foster regional development and integration;

Reaffirming the important role of sound environmental management in the social and economic wellbeing and livelihoods of the people of the region, in the supply of food, in ensuring food security and the alleviation of poverty;

Recognising the United Nations Conference on Environment and Development (UNCED) held in June 1992 and the Rio Declaration and its principles as well as Agenda 21, a blueprint for sustainable development;

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Taking into account the provisions of the negotiated outcome of the World Summit on Sustainable Development (WSSD) held in September 2002, the Johannesburg Plan of Implementation (JPOI), which sets out 37 targets for achieving sustain able development, and the Millennium Development Goals;

Further acknowledging the negotiated outcomes of the United Nations Conference on Environment and Development (UNCED) of 1992, the World Summit on Sustainable Development (WSSD) of 2002 and the Rio+20 Summit of 2012 and the provisions of the outcome document "the Future we want";

Recognising that in an increasingly global context, the environment is linked to global security in respect of issues such as global climate change, desertification, biodiversity loss, diminishing water resources and the degradation of the earth's capacity to assimilate pollution and waste;

Considering that the sub-Saharan region is particularly vulnerable to the impacts of climate change, which is compounded by its low adaptive capacity;

Recognising the need to promote gender equality, reduce the impact of HIV/AIDS and acknowledging the role of civil society and the private sector in environmental management and the protection of the environment;

Committed to capacity building for sustainable development and sound environmental management and integrity at national and regional levels;

Further understanding the cross-cutting nature of environment and its link to poverty, food security and conscious of our responsibility to our peoples and future generations and the need to ensure the right to a healthy environment;

Conscious that environmental management and protection has important linkages to other SADC sectors and Protocols;

Acknowledging the special position of landlocked and island SADC Member States;

Recognising the unique transboundary nature of natural resources and ecosystems, and the need to jointly co-operate and integrate actions at a regional level to optimise the sustainable use of the natural resources of the region for the continued benefit of peoples of the Region;

Convinced also of the need to achieve coherence in the Region's intra-regional, inter-regional and multilateral commitments and negotiations on environment as well as intra-regional trade, investment and commercial development as essential to the economic integration of the Region;

Further convinced that the development of a comprehensive regime for the protection of the environment and dependent and associated ecosystems is in the interest of the people of the Region and mankind as a whole;

Desiring to conclude a Protocol to supplement the Treaty to this end;

Hereby agree as follows:

Part 1 – Definitions, scope, principles and objectives

Article 1 – Definitions and use of terms

(1) In this Protocol, unless the context otherwise requires, the terms and expressions defined in Article 1 of the SADC Treaty shall bear the same meaning.

(2) In this Protocol, unless the context otherwise requires:

"**biodiversity or biological diversity**" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems;

"**biological resources**" means genetic resources, organisms or parts thereof, populations or any other biotic component of ecosystem with actual or potential use or value for humanity;

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"**biosafety**" means the protection of biological diversity from the potential risks posed by living and genetically modified organisms resulting from modern biotechnology;

"**biotechnology**" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use;

"**bush encroachment**" refers to the conversion of a grassland-dominated vegetation type to one that is dominated by woody species, as well as increasing woody plant density;

"**climate change**" means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

"**Committee of Ministers**" means the committee of Ministers responsible for environment matters;

"**Committee of Senior Officials**" means the committee of senior Officials responsible for environment matters;

"**cradle to grave principle**" means a product's life cycle and performance from creation to disposal;

"**cultural heritage**" includes monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science; groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place In the landscape, are of outstanding universal value from the point of view of history, art or science; and sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view;

"**desertification**" refers to the process of land degradation in arid, semi-arid and dry sub-humid areas, resulting from various factors, including climatic variations and human activities;

"**ecosystem**" means a dynamic system of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

"**environment**" means the entire range of living and non-living factors that influence life on the earth and their interactions;

"**environmental economics**" refers to a branch of economics that deals with the impacts of interaction between man and nature and finds human solutions to maintain harmony between man and nature;

"**environmental goods and services**" refers to ecological services rendered to humanity by the natural environment in the form of life supporting systems or biodegradation of waste products;

"**environment assessment**" refers to a procedure that ensures that environmental implications of decisions are taken into account before decisions are made;

"**environmental indicator**" means a parameter, or a value derived from parameters, that points to, provides information about or describes the state of the environment, and has a significance extending beyond that directly associated with any given parametric value and includes indicators of environmental pressures, conditions and responses;

"**eutrophication**" refers to the process whereby nutrients accumulate in a body of water, which process is often accelerated by nutrient-rich discharges from agriculture or sewerage, leading to a rapid and excessive growth of algae and water plants and undesirable changes in water quality;

"**evaluation**" refers to the process of determining the worth or significance of a development activity, policy or program to determine the relevance of objectives, the efficacy of design and implementation, the efficiency of resource use, and the sustainability of results;

"**extended producer responsibility**" refers to actions which extend a person's financial and physical responsibility of a product to a post-consumer stage of the product and includes, waste minimisation programmes, financial contributions to any fund that has been established to promote the minimisation,

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recovery, re-use and recycling of waste; awareness programmes to inform the public of the impacts of waste emanating from the product on human health and the environment and any other measures to reduce the potential impacts of the product on the human health and the environment;

"**Genetically Modified Organism (GMO)**" means an organism whose genome has been engineered in the laboratory in order to favour the expression of desired physiological traits or the production of desired biological products;

"**hazard**" means a source of or exposure to danger;

"**hazardous chemical**" refers to a chemical substance that poses a threat to human health and the environment, Hazardous chemicals may be toxic, corrosive, ignitable, explosive or chemically reactive;

"**hazardous waste**" includes waste that is poisonous, corrosive, noxious, explosive, inflammable, radioactive, toxic or harmful to human health and the environment;

"**international environmental instrument**" refers to any international agreement, declaration, resolution, convention or protocol which relates to the management of the environment;

"**invasive alien species**" refers to plants, animals, pathogens and other organisms that are non-native to an ecosystem, and which may cause economic or environmental harm or adversely affect human health. In particular, they impact adversely upon biodiversity, including by contributing to the decline or elimination of native species - through competition, predation, or transmission of pathogens - and the disruption of local ecosystems and ecosystem functions;

"**land degradation**" means reduction or loss, in arid, semi-arid and dry sub-humid areas, of the biological or economic productivity and complexity of rain-fed cropland, irrigated cropland, or range, pasture, forest and woodlands resulting from land uses or from a process or combination of processes, including processes arising from human activities and habitation patterns, such as: soil erosion caused by wind or water; deterioration of the physical, chemical and biological or economic properties of soil; and long-term loss of natural vegetation;

"**management plans**" means courses of action for ensuring that undue or reasonably avoidable impacts of an intervention are prevented or minimised and monitored while the positive benefits are enhanced;

"**monitoring**" means the collection, compilation and analysis of information on the environment and related activities;

"**natural heritage**" means natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view; geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation; and natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty;

"**natural resource**" means material source of wealth, such as fauna and flora, fresh water, mineral deposits, that occurs in a natural state and has economic value;

"**natural resources economics**" means a branch of economics that deals with the supply, demand, and allocation of the earth's natural resources with the objective of better understanding the role of natural resources in the economy in order to develop more sustainable methods of managing those resources and ensure their availability to future generations;

"**natural resource accounting**" refers to an accounting system that deals with stocks and stock changes of natural assets, comprising biota (produced or wild), subsoil assets (proved reserves), wafer and land with their aquatic and terrestrial ecosystems;

"**persistent organic pollutants**" means chemical substances that persist in the environment, bioaccumulate through the food web, and pose a risk of causing adverse effects to human health and the environment;

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"**precautionary principle**" refers to the principle which states that where there are threats of serious or irreversible damage to the environment, lack of full scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental damage;

"**pollution**" means any direct or indirect alteration of the environment caused by the introduction of any substance or condition as to cause an actual or potential danger to human health and the environment;

"**Protocol**" means this instrument of implementation of the SADC Treaty and includes any Annex, Amendment or extension thereof which forms an integral part of this Protocol;

"**Public Private Partnership**" means a contract between a public sector institution and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project;

"**SADC Region**" means the geographic area of the Member States of SADC;

"**salinisation**" means an increase in salt concentration in an environmental medium, such as water and soil;

"**Sanitary and Phytosanitary (SPS) Measures**" means measures to protect humans, animals, and plants from diseases, pests, or contaminants. These apply to all sanitary (relating to animals) and phytosanitary (relating to plants) measures that may have a direct or indirect impact on international trade;

"**subsidiary instrument**" means an agreement entered into by two or more Member States in accordance with, and for the purposes of achieving the objectives of this Protocol;

"**surveillance**" means the monitoring and supervision of environmentally related activities to ensure compliance with control measures;

"**sustainable development**" refers to development that meets the needs of the present without compromising the ability of future generations to meet their own needs;

"**sustainable trade and investment**" refers to trade and investment that places sustainable development at the centre of its decision-making processes;

"**State Party**" means a country that has ratified or acceded to this Protocol;

"**the polluter-pays principle**" refers to a principle according to which the polluter bears the full social and environmental costs of avoiding, mitigating, or remedying damage done to society or the environment;

"**traditional knowledge**" means knowledge and skills that people in a given community have developed over time, and continue to develop. It is based on experience, often tested over centuries of use, adapted to local culture and environment, dynamic and changing and forms the basis for decision making;

"**transboundary**" means traversing from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State to or through an area not under the national jurisdiction of any State, provided at least two States are involved;

"**waste**" means substances or objects which are disposed of or are intended to be disposed of or required to be disposed of;

Article 2 – Scope

This Protocol shall apply to all activities by the State Parties relating to environmental management, including the following issues:

(a) the marine, aquatic and terrestrial environment and the atmosphere;

(b) natural and cultural resources; and

(c) environmental management by nationals of State Parties, and other activities directly related thereto.

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Article 3 – Principles

1. In implementing this Protocol, the State Parties shall cooperate in good faith and shall be guided by, and give effect to, the principles set out in this Article.
2. State Parties shall have, in accordance with the SADC Treaty and the principles of international law, the sovereign right to use their natural resources to meet their developmental needs sustainably and a responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment and natural resources of other states.
3. In implementing this Protocol, the State Parties shall be guided and give effect to environmental management that:
   (a) places people and their needs at the forefront of its concern, and serves the people's physical, psychological, developmental, cultural and social interests equitably; and
   (b) is integrated, acknowledging that all elements of the environment are linked and interrelated, and takes into account the effects of environmental decisions on people and ecosystems by pursuing the selection of the best practicable environmental option.
4. State Parties shall implement sustainable development in such manner as to achieve positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life by, among other things:
   (a) minimising and where possible avoiding the disturbance to ecosystems and loss of biological diversity;
   (b) minimising and where possible avoiding the pollution and degradation of the environment;
   (c) minimising and where possible avoiding the disturbance to landscapes and sites that constitute the nation's cultural heritage;
   (d) avoiding the generation of waste, or where it cannot be altogether avoided, minimise, re-use, recycle or disposed of in an environmentally friendly and responsible manner;
   (e) ensuring that the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;
   (f) ensuring that the development, use and exploitation of renewable resources and the ecosystems of which they are part, do not exceed the level beyond which their integrity is jeopardised;
   (g) ensuring that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions;
   (h) ensuring that the negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied; and
   (i) ensuring that the use of tangible and intangible cultural resources is sustainable, responsible, equitable and responsive to specific socio-economic and development needs of each site and country.
5. State Parties shall pursue equitable access to environmental resources, benefits and services and may take special measures to ensure access thereto by local communities to meet their basic human needs and ensure human well-being.
6. In implementing this Protocol State Parties shall promote:
   (a) the participation of all interested and affected parties in environmental governance and shall give all people the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation;

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(b) gender equality and strive to address any other targeted inequalities that are identified as such by the State Parties; and

(c) community well-being and empowerment through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.

7. State Parties shall ensure that:

(a) decisions take into account the interests, needs and values of all interested and affected parties, including the recognition of all forms of knowledge, including traditional knowledge; and

(b) the social, economic and environmental impacts of activities, including disadvantages and benefits, are considered, assessed and evaluated, and decisions are appropriate in the light of such consideration and assessment.

8. State Parties shall promote intergovernmental co-ordination with a view to harmonise policies, legislation and actions relating to the environment,

9. State Parties shall endeavour to resolve amicably actual or potential conflicts between themselves through appropriate dispute resolution mechanisms.

10. State Parties shall in their common interest discharge their global and international responsibilities relating to the environment.

11. State Parties acknowledge that:

(a) the environment is held in public trust for the people, that is, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage;

(b) sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, oceans and island sensitive areas, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure;

(c) the polluter pays principle shall apply in so far as the costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment;

(d) the precautionary principle shall apply where the assumption of the worst-case scenario with respect to actions whose outcomes are uncertain and a risk-averse approach must be followed that recognises the limits of current knowledge about the environmental consequences or decisions or actions;

(e) the cradle to grave principle shall apply, where the responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle;

(f) extended producer responsibility shall apply for the furtherance of the promotion of sustainable consumption and production practices;

(g) the principles of environmental economics shall apply in assessing the full costs and benefits of ecosystem goods and services as well as alternative environmental policies to deal with air pollution, water quality, toxic substances, waste and global warming; and

(h) the principles of natural resource accounting shall apply for State Parties to account for the state and quality of the environment and natural resource base by bringing the environment into national accounting through deductions from the GDP for various aspects of environmental degradation such as the value of pollution abatement and control expenditure, the value of environmental damage during the accounting period and the depletion of natural resources,

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Article 4 – Objectives

1. The main objectives of this Protocol are to:

   (a) enhance the protection of the environment in order to contribute to human health, wellbeing and poverty alleviation;

   (b) promote equitable and sustainable utilisation of natural and cultural resources and the protection of the environment for the benefit of the present and future generations;

   (c) promote the shared management of trans-boundary environment and natural resources; and

   (d) promote effective management and response to impacts of climate change and variability.

2. In order to achieve these objectives, State Parties shall cooperate by:

   (a) contributing towards sustainable development through the adoption of sound environmental management principles and procedures;

   (b) ensuring equitable access and sharing of benefits that accrue from genetic resources;

   (c) ensuring that gender equality and equity is mainstreamed into environmental management for sustainable development;

   (d) ensuring that sustainable development objectives are mainstreamed into trade and socio-economic policies, programmes and plans in the region;

   (e) promoting trade in environmental goods and services for the development of the economies of the State Parties;

   (f) facilitating value addition and beneficiation of the region's natural resources to maximise benefits;

   (g) enhancing the restoration, rehabilitation and remediation of degraded and polluted environments;

   (h) promoting complementarity in implementing transboundary environmental management activities;

   (i) facilitating harmonisation of environmental policies, legislation, law enforcement and natural resources governance;

   (j) monitoring and reporting on environmental trends and implementation of transboundary programmes in the region including development and implementation of early warning systems and environmental risk assessments;

   (k) facilitating the development, implementation and coordination of environmental assessment procedures, environmental management instruments and standards;

   (l) developing and implementing co-ordinated and where feasible joint climate change mitigation and adaptation strategies and implementation of co-ordinated environmental disaster management responses;

   (m) managing the collection, storage, movement and disposal of transboundary waste and hazardous chemicals including radioactive materials;

   (n) preventing and controlling air, water and soil pollution and degradation of the region's natural resources;

   (o) promoting sustainable land management practices so as to prevent soil erosion, land degradation, deforestation, desertification, overgrazing and bush encroachment; and

   (p) promoting the use of environmental economics and natural resources accounting in development planning.

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Part 2 – Management of the environment and transboundary considerations

Article 5 – Air quality

State Parties shall take measures to manage and control the transboundary effects of air pollution through:

(a) elaboration of national and regional frameworks and strategies for the management of air pollution, including the development of the necessary national capacities;

(b) the development of air quality monitoring systems and the necessary national capacity;

(c) managing and reducing emissions from transportation, power generation, urban, industrial and agricultural processes, among others, generated in one State Party and potentially impacting on the air quality of other State Party or Parties;

(d) the promotion of low carbon emissions trajectories particularly in the context of climate change and global warming; and

(e) promoting the use of cleaner and low carbon technologies.

Article 6 – Waste and pollution

1. States Parties shall take measures to ensure that activities within their jurisdiction and control do not cause significant transboundary environmental impacts. In this regard, each Party shall adopt and enforce appropriate national legislation necessary to ensure prevention and control of pollution.
2. State Parties shall take measures to address the weak or non-existent systems for management of waste including among others domestic, industrial, medical, agricultural, electronic, hazardous and radioactive waste, to avoid transboundary pollution, through developing and implementing integrated waste management strategies and legislation with obligations for waste reduction, sorting, re-use and recycling.
3. State Parties shall take measures to manage and control the transboundary effects of hazardous wastes through:
   (a) enhancement of capabilities to manage hazardous wastes as required by the Basel Convention;
   (b) the prohibition of transboundary movements of hazardous wastes and their disposal, as stipulated by the Basel Convention; and
   (c) the prohibition of the illegal or unregulated dumping of hazardous wastes on land, at sea and in internal waters.

Article 7 – Chemicals management

State Parties shall take measures following the principles of sound management of chemicals, through *inter alia*.

(a) initiatives to elaborate national chemical profiles, regional and national frameworks and strategies for the management of chemicals, including establishing the necessary national capacities; and

(b) the management of transboundary movements of hazardous chemicals and their disposal in accordance with provisions of the Basel Convention, Stockholm Convention and Rotterdam Convention and other relevant conventions.

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Article 8 – Biodiversity and natural heritage

1. State Parties shall take measures to conserve ecosystems, including their biodiversity and unique habitats, which provide goods and services that support livelihoods of the people and enhance aesthetic values of the SADC Region.
2. State Parties shall take measures to ensure and promote the sustainable management and utilisation of local and transboundary biological diversity including:
   (a) natural forests, woodlands, water catchment areas and other terrestrial ecosystems;
   (b) wildlife;
   (c) fisheries and marine resources;
   (d) aquatic and marine ecosystems;
   (e) wetlands;
   (f) agro-biodiversity; and
   (g) genetic resources.
3. State Parties shall adopt the necessary legislative and administrative measures to protect and manage natural heritage for the benefit of present and future generations.
4. State Parties shall take measures to ensure and safeguard equitable access and sharing of benefits deriving from genetic and biological resources of a regional and transboundary nature.
5. State Parties shall take measures to eradicate, control and prevent the introduction of invasive alien species.
6. State Parties shall put in place sound biotechnology and biosafety policies to manage Living or Genetically Modified Organisms.
7. State Parties shall take measures to secure and manage ecosystems that provide natural buffering mechanisms to risks posed by climate change through ecosystem based approaches.

Article 9 – Cultural heritage

1) State Parties shall take measures to develop common approaches to heritage conservation and sustainable development that are responsive to specific socio-economic contexts and the development needs of each site and country.
2) State Parties shall endeavour to enhance:
   (a) the involvement of all stakeholders, in particular the affected local communities in the decision-making processes;
   (b) systematic integration of heritage conservation into regional, national and local developmental plans;
   (c) legislative provisions relating to the management and promotion of cultural heritage; and
   (d) benefits to communities in social, economic and environmental terms as an enabler of sustainable development

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Article 10 – Sustainable land management

State Parties shall take measures to combat desertification and land degradation and implement sustainable land management practices, including transboundary considerations, through:

(a) the control of soil erosion;

(b) ensuring that land tenure systems are environmentally sustainable;

(c) promoting sustainable forestry and land use practices;

(d) promoting environmentally sustainable land use planning;

(e) integrated water-shed management;

(f) fire management;

(g) remediation, reclamation and rehabilitation of degraded ecosystems; and

(h) integrated financing for sustainable land management

Article 11 – Marine and inland water resources

State Parties shall take measures to mitigate adverse environmental impacts on marine and coastal environments as well as inland water resources, including transboundary considerations, through:

(a) adequate and proper sanitation, sewage and industrial effluent disposal and treatment;

(b) development and adoption of regional water quality standards for domestic, agricultural and industrial use;

(c) protection of inland water bodies, particularly wetlands;

(d) prevention and management of eutrophication and salinisation of inland surface and subterranean water resources;

(e) implementation of programmes for the management of marine pollution;

(f) integrated coastal zone management; and

(g) development of ocean management policies that recognise and value the goods and services accrued nationally and regionally,

Article 12 – Climate change

State Parties shall take measures to address issues of climate change including transboundary considerations, through;

(a) adopting the necessary legislative and administrative measures to enhance adaptation to the impacts of climate change, bearing in mind the diverse and gender differentiated levels of vulnerabilities;

(b) taking nationally appropriate voluntary climate change mitigation measures;

(c) addressing the negative impacts of climate change on, among others:

  (i) food security and nutrition;

  (ii) water resources;

  (iii) health;

  (iv) economic activities, particularly agriculture, tourism, energy and industrial development, reducing emissions from deforestation and forest degradation;

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(v) fisheries and coastal management;

(vi) Infrastructure;

(vii) poverty eradication; and

(viii) gender equality initiatives.

(d) taking measures to develop early warning systems and disaster management strategies; and

(e) participating in sub-regional and international climate change meetings, conferences, summits, workshops and seminars in order to access the benefits related to technology transfer, financing and capacity building and influence policy and decision making processes.

Part 3 – Implementation

Article 13 – General undertakings of State Parties

1. The responsibility for the implementation of this Protocol is essentially national, but in the case of shared resources and issues of regional nature, State Parties shall co-operate with one another to ensure that the objectives of this Protocol are achieved.
2. State Parties shall take appropriate measures at national and international levels necessary for the harmonisation of laws, policies, plans and programmes on environmental management, including research and monitoring aimed at promoting the objectives of this Protocol.
3. State Parties shall take measures required to harmonise standards, processes and procedures with particular reference to regional and trans boundary environmental management.
4. State Parties shall refrain from taking any measures which may hinder the implementation of this Protocol.
5. State Parties shall ensure the participation of all stakeholders within their jurisdiction in the promotion of the objectives of this Protocol, in accordance with Article 23 of the Treaty.
6. State Parties shall promote gender equality and strive to address issues of gender, disability and any other inequalities related to environmental management for sustainable development and the implementation of this Protocol.
7. Since natural resources are national assets, State Parties shall take appropriate measures to regulate the use and protection of their natural resources against over-exploitation, whilst creating an enabling environment and building capacity for the sustainable utilisation of these resources.
8. State Parties shall establish standardised formats and requirements for the application of relevant environmental management tools.
9. State Parties shall monitor and exchange information on transboundary movement of waste and hazardous substances.
10. State Parties shall take responsibility for transboundary management of wastes and hazardous substances in terms of relevant multilateral environment agreements.
11. State Parties shall take responsibility for the management of transboundary natural resources and shared ecosystems.
12. State Parties shall develop relevant implementation plans for this Protocol.
13. State Parties shall develop the necessary capacity to implement the objectives of the Protocol.
14. State Parties shall facilitate the movement of personnel, vehicles, and equipment engaged in agreed trans-boundary activities pursuant to the objectives of this Protocol.

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15. State Parties shall take necessary measures to promote the management and control of the spread of invasive alien species.

16. State Parties shall contribute to the production of regular state of the environment reports and the development of appropriate environmental indicators for the monitoring of key environmental trends in tile SADC Region.

17. State Parties shall put in place domestic legislative and administrative measures to ensure the implementation of this Protocol, including but not limited to, the following:

    (a) providing appropriate access to information concerning the environment;

    (b) facilitating public awareness on environmental issues; and

    (c) ensuring effective access to judicial and administrative justice, including appropriate redress and remedy on environmental matters.

18. State Parties may make specific provisions in their environmental management and other relevant legislation in line with the provisions of the Rio Declaration, Johannesburg Plan of Implementation emanating from the World Summit on Sustainable Development, Rio+20 and other relevant and applicable multilateral environment agreements.

19. State Parties shall create favourable socio-economic conditions to support the promotion of sound environmental management practices and sustainable development.

Article 14 – Management of shared natural resources

1. State Parties shall address the causes of environmental degradation in transboundary areas by undertaking measures in conformity with the SADC Treaty and its protocols and other international treaties and conventions of relevance to the environment.

2. State Parties may, through bilateral or plurilateral means, establish instruments for co-ordination, co-operation, or integration of management of shared resources, transboundary movement of waste, and climate change, oceans and costal management, conservation, monitoring and research, including but not limited to:

    (a) specialist scientific advisory groups;

    (b) joint programmes and projects;

    (c) joint technical, or advisory committees;

    (d) joint ministerial commissions with powers to allocate shared resources among States and agree on management measures;

    (e) collaboration in law enforcement; and

    (f) implementation of management plans for activities with potential transboundary environmental impacts and the monitoring and evaluation thereof.

3. State Parties may agree on management plans for shared resources and transboundary environmental issues which may include the following components:

    (a) harmonised, or integrated systems to monitor natural resources and environmental programmes, agreed scientific methodologies and preparation of best scientific advice on sustainable levels of exploitation;

    (b) agreed management measures, and specification of means for implementing and enforcing such measures;

    (c) principles, policies, and means for allocation of shared resources; and

    (d) means for fostering joint venture enterprises.

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4. State Parties shall develop early warning systems and undertake environmental assessments for developments with respect to transboundary environmental considerations.
5. State Parties shall develop and implement co-ordinated environmental disaster management responses.
6. State Parties shall take measures and co-operate in clean-ups, restoration, rehabilitation and remediation of transboundary degraded and polluted environments.
7. State Parties shall develop, implement, enforce, monitor and evaluate management plans consistent with the objectives of this Protocol.
8. State Parties shall endeavour to ensure that all stakeholders participate at the appropriate level, in decision-making processes that affect the management of shared resources and transboundary goods and services.

Article 15 – Law enforcement

1. State Parties shall take measures to ensure the optimal use of existing resources for the enforcement of environmental law.
2. State Parties shall agree upon activities detrimental to the environment, to be deemed as offences.
3. State Parties shall co-operate in the harmonisation and use of monitoring and surveillance systems with a view to minimise the cost of environment law enforcement.
4. State Parties may conclude arrangements, bilateral or otherwise, to co-operate in the provision of personnel and the use of vessels, aircraft, communications, databases and information, or other assets for the purposes of environmental management surveillance and law enforcement.
5. State Parties shall designate competent institutions and persons to act as environmental management enforcement officers.
6. State Parties shall strive to harmonise the technical specifications and emerging technologies of interest to environmental management surveillance activities.
7. State Parties shall establish appropriate arrangements to co-operate in dealing with suspected environmental criminals who cross from one Member State to another.
8. State Parties shall enact laws, conclude arrangements and establish procedures for the extradition to each other of persons charged with or convicted of offences of contravening the environmental laws of the State Party seeking the extradition of such persons.
9. State Parties shall take measures to strengthen the capacity of their judicial systems to effectively prosecute perpetrators of environmental crimes or offences.
10. Should some State Parties wish to provide that a penalty imposed by each one of them under their environmental management Jaws be enforced by another State Party or Parties, they may agree on procedures for that purpose consistent with their national laws.
11. State Parties shall establish region-wide comparable levels of penalties to be imposed for activities that constitute offences against the environment.

Article 16 – International relations

1. State Parties shall endeavour to sign, ratify, domesticate and implement international conventions and agreements on environment.
2. State Parties shall endeavour to establish joint positions and undertake co-ordinated and complementary actions with regard to international fora, conventions and agreements relevant to this Protocol.

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Part 4 – Cross-sectoral issues

Article 17 – Human resources development

1. State Parties shall develop and implement education programmes on environmental management and sustainable and responsible use of the natural environment.
2. State Parties shall foster awareness of sound environmental management and sustainable and responsible use of the natural environment.
3. State Parties shall implement policies to enhance the capacity of nationals to engage in the responsible use of natural resources on the basis of equity, participation, effectiveness, and mutual benefit.
4. State Parties shall actively work towards the enhancement of environmental management training and skills development.
5. State Parties shall encourage national and regional programmes for skills transfer from locations and institutions of best practice to all levels of practitioners and policy-makers.
6. State Parties shall promote regional professional associations and encourage their involvement in the pursuit of the objectives of this Protocol.
7. State Parties shall encourage the empowerment of local authorities, private sector and communities to take charge of the management of their environment to prevent pollution and environmental degradation.
8. State Parties shall ensure that the capacity of the SADC judicial institutions for environmental justice and governance is enhanced.

Article 18 – Trade and investment

1. State Parties shall promote sustainable trade and Investment practices with due consideration of their potential significant environmental impacts.
2. State Parties shall develop guidelines for mainstreaming environment considerations into regional trade and investment
3. State Parties shall give special consideration in the establishment of joint ventures in the environmental sector to:
   (a) ensuring sustainability of natural resources;
   (b) promoting regional food security;
   (c) promoting environmentally sustainable trade in SA DC;
   (d) promoting value-added processing;
   (e) establishing a favourable cross-border investment regime through, *inter alia*:
      i.) encouraging the mobility of key personnel and the associated transfer of skills;
      ii.) developing key infrastructure;
      iii.) protecting the associated assets; and
   (f) ensuring that nationals and their vehicles comply with applicable domestic and international laws.
4. State Parties shall promote Public Private Partnerships (PPPs) in addressing issues of investment in environmental programmes through inta alia:
   (a) facilitating policy, legislative and institutional reforms to create an enabling environment for PPPs;

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(b) providing training and technical assistance to build capacity for PPPs; and

(c) providing relevant information and best practice guidelines for PPPs.

5. State Parties shall create an enabling policy and guidelines for the promotion of investment in the environmental management sector.

6. State Parties shall promote the development and use of energy efficient and clean production technologies.

7. State Parties shall co-operate in establishing regional capacity to implement internationally recognised and acceptable environmental standards on quality control and certification.

8. State Parties may establish joint positions with regard to sustainable trade, intellectual property rights, eco-labelling of products, environmental goods, products and services and other trade issues of relevance to State Parties.

Article 19 – Science and technology

1. State Parties shall co-operate in establishing joint research programmes and projects, with particular reference to shared natural resources, including areas of the oceans that are within national jurisdiction and on the high seas, climate change, transboundary environmental considerations and scientific problems considered common to the sub-region or parts of the sub-region.

2. State Parties shall work towards the generation and application of best scientific and indigenous knowledge as a basis for decisions on the sustainable use of the environment and natural resources through *inter alia*:

   (a) peer review, including external evaluation of research by acknowledged centres of excellence;

   (b) designation and support to regional centres of excellence;

   (c) the inclusion and application of indigenous knowledge systems and structures in decision making;

   (d) participation in national, regional and international research fora;

   (e) promoting publications of regional interest, including electronic journals; and

   (f) promoting the establishment of networks and professional associations.

3. State Parties agree that knowledge and data generated through joint regional environmental management research projects and programmes shall be shared by the participating State Parties.

4. State Parties shall endeavour to avoid duplication in research undertakings and to share costly facilities and equipment with particular reference to research, surveillance and remote sensing facilities and geographical information systems.

5. State Parties shall, in close collaboration with other regional initiatives in the areas of meteorology, cartography, drought monitoring and early warning systems, endeavour to secure adequate coverage by remote sensing and geographical information systems or other means of the full extent of the state of the environment of the SADC Region.

6. State Parties shall endeavour to adopt appropriate means and approaches for the standardisation and monitoring of plant, vehicles, machinery, equipment and other hardware particularly emerging technologies and other advanced technologies.

7. State Parties shall promote among themselves, the transfer, acquisition and mastery of technology of value to the implementation of this Protocol, with particular reference to environmentally friendly and clean technologies.

8. State Parties undertake to respect applicable intellectual property rights with reference to the utilisation of environmental technologies.

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Article 20 – Gender equality

1. State Parties shall undertake gender analysis and gender mainstreaming of all environmental management, climate change and sustainable development policies, programs, projects and budgets.
2. State Parties shall develop and implement gender responsive policies, strategies, projects and programmes for environmental management and disaster reduction especially on climate change for sustainable development.
3. State Parties shall design gender responsive capacity building, education, and training on environmental management, and climate change for sustainable development initiatives,
4. State Parties shall employ people-centered, equitable, gender inclusive and participatory consultations of all stakeholders in all environmental management and climate change for sustainable development programmes and initiatives.
5. State Parties shall utilize local knowledge, particularly women's skills, knowledge and capacities in mitigation and adaptation strategies for environmental management.
6. State Parties shall, as part of their research agenda, include all aspects of gender In environmental management, risk assessment, emergency and disaster response and other sustainable development initiatives.

Article 21 – Information management, exchange and reporting

1. State Parties shall co-operate in the generation and exchange of complete and detailed information essential for achieving the objectives of this Protocol, including:
   (a) the state of the environment and environmental trends of the region;
   (b) measures taken to manage the environment;
   (c) measures taken to mitigate and adapt to the impacts of climate change;
   (d) transboundary movement of waste, stockpiles of agrochemicals and hazardous chemicals and other transboundary environmental issues;
   (e) relevant research activities and results; and
   (f) natural resource accounting.
2. State Parties shall ensure that effective communication strategies which promote broader participation of stakeholders are developed in order to promote participative management of the sub-region's environment.
3. State Parties shall adopt standard methods and approaches for collecting, processing, storage and dissemination of environmental and gender disaggregated data and information on environmental management, climate change and sustainable development.
4. A central data and information warehouse shall be established at the SADC Secretariat to manage, store and archive environmental publications and records to which Member States shall deposit the relevant information and data.
5. State Parties shall contribute to the production of regular state of the environment reports and the development of appropriate and gender sensitive environmental indicators for the monitoring of key environmental and sustainable development trends for the SADC Region.

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Part 5 – Institutional arrangements

Article 22 – Institutional framework

The following institutions are hereby established and shall be responsible for implementing this protocol:

(a) Committee of Ministers Responsible for the Environment;

(b) Committee of Senior Officials Responsible for the Environment; and

(c) Technical Committee on Environmental Management.

Article 23 – Committee of Ministers responsible for the environment

1. The Committee of Ministers shall comprise the Ministers responsible for the environment from the State Parties.
2. The powers and functions of the Committee of Ministers shall be to:
   (a) establish the policy and strategy of the SADC environmental management sector;
   (b) consider and recommend for approval by the Council the annual reports of the sector;
   (c) consider and approve recommendations on regional projects and programmes;
   (d) consider and approve recommendations on rules and regulations governing the sector;
   (e) monitor the Implementation of this Protocol;
   (f) consider any matter having a bearing on the objectives, direction, areas of co-operation, and implementation of this Protocol brought to its attention by a Member State, the Committee of Senior Officials or the SADC Secretariat;
   (g) recommend to the Council amendments to the Protocol and changes or modifications to the structure of the Sector;
   (h) consider any matter referred to the Committee of Ministers by the Council;
   (i) create such other organs as may be necessary for the implementation of this Protocol;
   (j) identify and introduce new areas of co-operation which may be agreed to be areas of co-operation in terms of this Protocol;
   (k) resolve disputes on environmental issues between Member States; and
   (l) recommend to the Council of Ministers the adoption of subsidiary instruments and arrangements that are consistent with the provisions of this Protocol to regulate co-operation in any particular area of co-operation.

Article 24 – Committee of Senior Officials responsible for the environment

1. The Committee of Senior Officials shall consist of Permanent Secretaries or officials of equivalent rank responsible for the environment in Member States.
2. The functions of the Committee of Senior Officials shall be to:
   (a) examine all reports and documents put before them by the Technical Committee, Specialist Committees and ad-hoc technical working groups and report to the Ministers accordingly;

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(b) implement, monitor and report on policies, strategies, programmes and projects instituted by the Committee of Ministers;

(c) advise the Committee of Ministers on policies, strategies, programmes and projects to be submitted to the Council;

(d) recommend to the Committee of Ministers the creation of such other organs as may be necessary for the implementation of this Protocol, and

(e) provide regular updates to the Committee of Ministers on the status of the implementation of this Protocol.

Article 25 – Technical Committee on Environmental Management

1. The Technical Committee on Environmental Management shall comprise of senior government officials (Directors of Environment or equivalent rank) with responsibility for environmental management from the State Parties.
2. The functions of the Technical Committee on Environmental Management shall be to:

   (a) advise the Committee of Senior Officials on environmental management issues, proposals and projects to be submitted to the Committee of Ministers responsible for Environment for presentation to the Council of Ministers;

   (b) analyse, implement and review policies, strategies and programmes aimed at the implementation of this Protocol;

   (c) perform such other functions as may be assigned to it by the Committee of Senior Officials; and

   (d) through the Committee of Senior Officials report to the Committee of Ministers on the state of implementation of this Protocol.

Article 26 – Specialist Committees and technical working groups

1. Standing Specialist Committees and ad-hoc technical working groups may be established by the Committee of Ministers, acting on a recommendation of the Committee of Senior Officials, to consider and advise on technical issues of interest to State Parties. The Technical Committee on Environment shall approve the terms of reference of such Specialist Committees and ad-hoc working groups.
2. Specialist Ad-hoc Committees are hereby established in the following areas:

   (a.) Environmental Management Education and Training; and

   (b.) Environmental Standards.
3. The Specialist Committee on Environmental Management Education and Training Is established to guide and facilitate regional co-operation in training and education, in accordance with the principles of the SADC Protocol for Education and Training. The Committee shall:

   (a) prepare and maintain a catalogue of regional vocational and tertiary training opportunities, institutional capacity, educational materials and media available both for formal training courses, for extension services and for stakeholder participation;

   (b) examine the equivalence of formal training courses and qualifications between institutions in the Region and undertake co-ordinated actions to achieve appropriate international standards as may be required;

   (c) identify core educational courses, modules, or units essential to the knowledge base of the environmental management sector and recognise and link centres of excellence in providing such

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educational opportunities, to include, *inter alia*, regional courses for environmental management enforcement officers; and

(d) examine constraints to staff and student mobility in the sector, and recommend measures to reduce or remove such barriers.

4. The Specialist Committee on Environmental Standards is established to recommend harmonised measures, consistent with the requirements of the markets, consumer protection, and human health which may be adopted by State Parties to improve quality and market access in the Region. The Committee shall address, *inter alia*:

   (a) the relevance and application of internationally acceptable norms and standards;

   (b) issues related to the World Trade Organisation Agreement on the application of Sanitary and Phytosanitary Measures;

   (c) harmonised sanitary certificates;

   (d) arrangements for auditing and accreditation of national laboratories;

   (e) issues generated by changing market conditions and requirements of importing States;

   (f) procedures and practices regarding trade; and

   (g) issues related to the packaging and labelling of products.

5. The Committee of Ministers, acting on a recommendation of the Committee of Senior Officials, may establish other ad hoc technical working groups, to consider and advise upon technical issues of interest to the State Parties.

Article 27 – Rules of procedure for meetings

The rules of procedure that shall apply to meetings of all institutions responsible for implementing this Protocol shall be the Rules of Procedures of Meetings of Sectoral Committees of Ministers made in pursuance of Article 20 of the Treaty.

Article 28 – Financial provisions

1. State Parties shall endeavour to allocate the necessary funds for the effective implementation of this Protocol at the national level.
2. The cost of administering and managing the activities of this Protocol shall be borne by State Parties.
3. The Council of Ministers shall ensure that adequate resources are allocated to support the relevant implementation of the provisions of this Protocol.
4. Programmes and projects of the environment sector may be financed by funds legitimately solicited from various sources, including the international donor community and other co-operation partners.
5. The environment sector may accept gifts, grants, legacies and donations from any source so long as such acceptance is in conformity with SADC Rules and Procedures.
6. State Parties may grant incentives to promote sound environmental management practices.
7. State Parties may establish a regional financing mechanism to finance transboundary and regional environmental programmes to be approved by the SADC Council.

Article 29 – Monitoring and evaluation

State Parties shall approve a monitoring and evaluation system for this Protocol as well as programmes executed by the Secretariat to implement the Protocol.

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Article 30 – Assets

Assets acquired by State Parties through the implementation of this Protocol shall be treated In accordance with the provisions of Article 27 of the SADC Treaty.

Part 6 – Final provisions

Article 31 – Annexes

1. State Parties may develop and adopt annexes for the implementation of this Protocol.
2. All Annexes developed to implement this Protocol shall form an integral part of the Protocol.

Article 32 – Settlement of disputes

1. State Parties shall strive to resolve any dispute arising between themselves regarding the application, interpretation or implementation of this Protocol amicably.
2. In the event that disputing State Parties are unable to amicably resolve a dispute in terms of paragraph 1 hereof the dispute shall be referred to the Committee of Ministers of Environment for an amicable settlement.
3. Any dispute arising from the interpretation and application of this Protocol which cannot be settled amicably in terms of paragraphs 1 and 2 hereof shall be referred to the SADC Tribunal.

Article 33 – Signature

This Protocol shall be signed by the duly authorised representatives of the Member States.

Article 34 – Ratification

This Protocol shall be ratified by the signatory Member States in accordance with their respective constitutional procedures.

Article 35 – Entry into force

This Protocol shall enter into force for those Member States which have deposited instruments of ratification thirty (30) days after the deposit of the instruments of ratification by two-thirds of the Member States.

Article 36 – Accession

This Protocol shall remain open for accession by any Member State.

Article 37 – Reservations

No reservation or exceptions shall be made to this Protocol.

Article 38 – Amendment

1. Any State Party may propose amendments to this Protocol.

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2. Proposals for amendments to this Protocol shall be made to the Executive Secretary of SADC who shall notify all the States Parties to this Protocol of the proposed amendments at least thirty (30) days in advance of the consideration of the amendments by the State Parties. Such notice may be waived by the State Parties.
3. Amendments to the Protocol shall be adopted by a decision of three quarters of all the State Parties and shall become effective thirty (30) days after such adoption.

Article 39 – Withdrawal

1. Any State Party may withdraw from this Protocol upon the expiration of twelve (12) months from the date of written notification to the Executive Secretary of SADC.
2. Any State Party that has withdrawn pursuant to paragraph 1 shall cease to enjoy all rights and benefits under this Protocol upon the withdrawal becoming effective, but shall remain bound by the obligations, financial or otherwise, herein for a period of twelve (12) months from the date of notification to the date the withdrawal becomes effective.

Article 40 – Depositary

1. The original text of this Protocol and all instruments of ratification and accession shall be deposited with the Executive Secretary of SADC, who shall transmit certified copies to all Member States.
2. The Executive Secretary of SADC shall register this Protocol with the Secretariats of the United Nations and the African Union and any other relevant organisations which the Council of Ministers may determine.

IN WITNESS WHEREOF, WE, the Heads of State or Government of SADC Member States, or our duly authorised representatives, have signed this Protocol.

Done at Victoria Falls, Republic of Zimbabwe, this 18th day of August 2014 in three original texts in the English, French and Portuguese languages, all texts being equally authentic.

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