

CHAPTER 7

A Review of Multilateral Environmental Agreements and their Implications for Environmental Governance in Kenya

Godfrey A. Olukoye¹ and H. Mukanga²

7.1 Introduction

New scientific evidence indicates that many global ecosystems are reaching dangerous thresholds that raise the stakes for policymakers (WWI, 2001). For example, the Arctic ice cap has already thinned by 42 percent, and 27 percent of the world's coral reefs have been lost, suggesting that some of the planet's key ecological systems such as forests and mangrove systems are in decline. Environmental degradation is also leading to more severe natural disasters, which have cost the world \$608 billion over the last decade-as much as in the previous four decades combined (WWI, 2001). With many life support systems at risk of long-term damage, the choice before today's political leaders is historic, even revolutionary, in nature: whether to move forward rapidly to build a sustainable economy or to risk allowing the expansion in human numbers, the increase in greenhouse gas emissions, and the loss of natural systems to undermine the economy.

These concerns led to the international community agreeing on a number of multilateral agreements (MEAs) whose need was reinforced at the United Nations Conference on Environment and Development (UNCED) held in June 1992, in Rio de Janeiro, Brazil. Through the reinforcement of these agreements, this Earth Summit provided a set of principles and obligations related to the protection of the Earth and to the improvement of the quality of life of its inhabitants through sustainable development.

Sustainable development is the ideal starting point for discussing strengthening environmental governance. The principles of sustainable development are contained in the Rio Declaration, popularly referred to as Agenda 21. Agenda 21 is a plan for use by governments, local authorities and individuals to implement the principles of sustainable development contained in the Rio Declaration. This document has significant status as a consensus document adopted by about 180 countries. Some the main issues at the core of Agenda 21 include:

¹Department of Environmental Sciences: godfreyolukoye@yahoo.com

²National Environment Management Authority (NEMA), Kenya

- ⊙ Reforming policies for bringing together environmental and economic issues. It calls for environmental considerations to be built into policy-making from the start rather than being added as an afterthought.
- ⊙ Controlling wasteful consumption and production – Agenda 21¹ pinpoints the wasteful consumption and production associated with industrialization and wealth acquisition as the most serious current cause of global degradation of the environment.
- ⊙ Improving technologies for promoting greater use of environmentally sound technologies that use resources more efficiently and generate minimal levels of waste.
- ⊙ Integrating trade and environment to make environment and trade mutually supportive. This recognizes that as trade can be adversely affected by the unjustifiable use of environmental concerns as technical barriers, so trade can adversely affect the environment if it leads to unsustainable production or unsustainable use of resources.
- ⊙ Means of financing and strengthening of major groups such as women, youth, and local authorities among others.

It is therefore logical for Kenya to implement these Conventions jointly by addressing issues that cut across many sectors as a cost-effective measure in the utilization of resources. It is also wise to create linkages with other international protocols² such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar) and WTO, among others in order to adopt a holistic approach to environmental governance.

7.2 Understanding Multilateral Environmental Agreements

Multilateral Environmental Agreements are internationally negotiated and agreed upon environmental governance instruments and treaties. They are vital in the general environmental protection, conservation and management especially in the face of environmental challenges against the backdrop of globalisation. These challenges include: uncontrolled growth in the context of inadequate governance; competitiveness problems; rising energy demand and climate change; the spread of invasive alien species; the spread of consumerism and cultural diversity loss; and concentration of power, information and financial resources and enhancing communication possibilities. MEAs are thus important in strengthening international environmental governance (IEG). Although they are currently voluntary measures,

¹<http://www.unep.org/Documents.multilingual/Default.asp?DocumentID=52&ArticleID=>
International Environmental Governance: Multilateral Environmental Agreements (MEAs), http://www.ramsar.org/key_unep_governance1.htm

there is need to make them legally-binding in support of global environmental governance.

Today there are over 500 international treaties and other agreements related to the environment, of which over 320 are regional. Nearly 60 percent date from 1972, the year of the Stockholm Conference, to the present. Since 1972, there has been an accelerated increase in Multilateral Environmental Agreements (MEAs); over 300 agreements were negotiated (GoK, 2006). The core environmental conventions and related international agreements are basically divided into the following clusters: the biodiversity-related conventions, the atmosphere conventions, the land conventions, the chemicals and hazardous wastes conventions, and the regional seas conventions and related agreements. The objectives and priorities of MEAs vary significantly from one agreement to another, even within a cluster. The common aspects include the sustainable development focus of the three Rio Conventions (Convention on Biological Diversity, CBD; United Nations Convention to Combat Desertification, UNCCD and the United Nations Framework Convention on Climate Change, UNFCCC), the sustainable use of natural resources and the environment, or the protection of the environment in such a way as to ensure its sustainable use. None of the core environmental agreements are exclusively oriented to protection and conservation.

The first category of MEAs, i.e. those related to UNEP's work is the focus of this chapter. These include the Convention to Combat Desertification (CBD), the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change (UNFCCC) and the Stockholm Convention on Persistent Organic Pollutants (POPs). These are core environmental conventions and related agreements of global significance whose negotiation, development and/or activities have been associated with United Nations Environment Programme (UNEP's) work, which is further reflected in a number of Governing Council decisions dating back to the establishment of UNEP. This is in recognition of the role of UNEP in providing leadership and promotion of cooperation in the field of the environment, as well as in contributing to the achievement of the Millennium Development Goals (MDGs).

Given the different stages of implementation of the core MEAs, the variation in priorities is quite broad. There are crosscutting priorities for many that are primarily of a functional nature, such as strengthening of the capacities of Parties or member states to meet their obligations or responsibilities under these agreements, enhancing membership of governments, public education and awareness, strengthened scientific basis for decision-making, and strengthened international partnerships. One of the most important thematic crosscutting issues is the assessment and management of pollution, which cuts across the chemicals and hazardous wastes conventions, some biodiversity-related conventions and the regional seas conventions and related agreements. Table 1 gives examples of the MEAs.

7.3 Multi-lateral Environmental Agreements in the National Context

Kenya is a signatory to a number of Multilateral Environment Agreements (United Nations Conventions) and has ratified the three Rio Conventions and the Stockholm Convention (those related to UNEP's work). Table 2 gives a summary of the key conventions, their secretariats, year of ratification by the Government of Kenya and the Kenyan focal points. By ratifying the conventions, Kenya agreed to be bound by the internationally recognized provisions of the conventions in ensuring sustainable environmental governance.

Table 1: Examples of the Multilateral Environmental Agreements

Convention on Biological Diversity (CBD)
United Nations Framework Convention on Climate Change (UNFCCC)
United Nations Convention to Combat Desertification (UNCCD)
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat
Convention on Migratory Species (CMS)
The World Heritage Convention
The Vienna Convention for the Protection of the Ozone Layer
Montreal Protocol on Substances that Deplete the Ozone Layer
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
The Rotterdam Convention on the Prior Informed Consent Principle for Certain Hazardous Chemicals and Pesticides in International Trade
Stockholm Convention on Persistent Organic Pollutants
Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities (GPA)
The Barcelona Convention for the Protection of the Mediterranean Sea against Pollution
The Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region
The South Asian Cooperative Environment Programme (SACEP)

For example, Multilateral Environment Agreements (MEAs) on climate change, desertification, biodiversity and Persistent Organic Pollutants (POPs) are individually and collectively geared towards the maintenance of a healthy environment and poverty alleviation especially in the developing countries. In deed most institutions and organizations in Kenya have either consciously or subconsciously been implementing activities related to all the conventions (Olukoye, 2005).

There are close inter-linkages among the various MEAs. For instance, climate change impacts on plant and hence animal species composition, which in turn impacts on land use dynamics and livelihoods. Land use dynamics and livelihoods are central in the concept of desertification. Different plants on the other hand, by acting as carbon dioxide sinks, are important in mitigating impacts of climate change. There is therefore, need to recognize and appreciate the synergism in these MEAs for sustainable environmental management. This would maximize on resources, minimize duplication of efforts and conflicts and increase resource use efficiency and effectiveness. Furthermore, recognizing that local communities are key to the holistic implementation of the different conventions (Olukoye, 2005), it is important to develop their capacity in genuine participation based on needs identified at the local level.

Table 2: Key MEAs, their Secretariats and Kenyan Focal Points

Convention	International Secretariat	Date ratified by GOK	Kenyan Focal point
United Nations Convention to Combat Desertification (UNCCD)	Bonn, Germany	June, 1997	NEMA
United Nations Framework Convention on Climate Change (UNFCCC)	Bonn, Germany	30-08-1994	NEMA
Convention on Biological Diversity (CBD)	Montreal, Canada	1994	NEMA
Stockholm Convention on Persistent Organic Pollutants (POPs)	Geneva, Switzerland	23-12-2004	NEMA
Basel Convention (BC)	Geneva, Switzerland	2000	NEMA

Source: National Environment Management Authority (NEMA), 2005

The country is however, yet to conduct a comprehensive examination of its capacity to execute actions under these conventions. Such capacity is necessary in the implementation of the country obligations as required by various MEAs. Similarly many institutions are unaware of the existence and provisions of these MEAs. Such awareness campaigns are important in achieving the goals of sustainable environmental governance within the framework of the MEAs.

7.4 Selected Multilateral Environmental Agreements (MEAs)

Kenya has signed and ratified several UN Conventions also known as Multilateral Environmental Agreements (MEAs). The country is now building on past capacity development activities by implementing the National Capacity Self Assessment (NCSA) project (GoK, 2006). NCSA is expected to significantly contribute to the overall capacity of Kenya to execute actions under these conventions in order to achieve its goal of sound and sustainable environmental management. These conventions are briefly discussed in the subsequent sections.

Convention on Biological Diversity

Biological diversity – or biodiversity - is the term given to the variety of life on Earth and the natural patterns it forms. Biodiversity also includes genetic differences within each species - for example, between varieties of crops and breeds of livestock. Yet another aspect of biodiversity is the variety of ecosystems such as those that occur in deserts, forests, wetlands, mountains, lakes, rivers, and agricultural landscapes. In each ecosystem, living creatures, including humans, form a community, interacting with one another and with the air, water, and soil around them. Biodiversity provides a large number of goods and services that sustain our lives. Another product of the 1992 Earth Summit, the Convention on Biological Diversity (CBD)¹, therefore aims to:

- ⊙ Conserve biological diversity for its intrinsic value,
- ⊙ Provide for the sustainable use of its components, and
- ⊙ Provide for the fair and equitable sharing of the benefits arising from the utilization of genetic resources.

This pact among the vast majority of the world's governments sets out commitments for maintaining the world's ecological underpinnings as we go about the business of economic development. Signed by 150 government leaders at the 1992 Rio Earth Summit, the Convention on Biological Diversity is dedicated to promoting sustainable development. Conceived as a practical tool for translating the principles of Agenda 21 into reality, the Convention recognizes that biological diversity is about more than plants, animals and micro organisms and their ecosystems – it is about

¹://www.biodiv.org/default.shtml

people and our need for food security, medicines, fresh air and water, shelter, and a clean and healthy environment in which to live.

United Nations Framework Convention on Climate Change

The 1992 United Nations Framework Convention on Climate Change (UNFCCC)¹ was adopted at the United Nations Headquarters, New York on the 9th May 1992; it was open for signature at the Rio de Janeiro from 4 to 14 June 1992, and thereafter at the United Nations Headquarters, New York, from 20 June 1992 to 19 June 1993. By that date, the Convention had received 166 signatures. It entered into force on 21 March 1994. It establishes a framework of general principles and institutions, and sets up a process through which governments can meet regularly. It sets an overall framework for intergovernmental efforts to tackle the challenge posed by climate change. It recognizes that the climate system is a shared resource whose stability can be affected by industrial and other emissions of carbon dioxide and other heat-trapping gases.

The convention sets an “ultimate objective” of stabilizing “greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic (human-induced) interference with the climate system.” It directs that “such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.” The convention is designed to allow countries to weaken or strengthen the treaty in response to new scientific developments. For example, they can agree to take more specific actions (such as reducing emissions of greenhouse gases by a certain amount) by adopting “amendments” or “protocols” to the Convention, such as the Kyoto protocol. Under the Convention, governments that are parties to the convention: Gather and share information on greenhouse gas emissions, national policies and best practices; launch national strategies for addressing greenhouse emissions and adapting to expected impacts, including the provision of financial and technological support to developing countries, and cooperate in preparing for adaptation to the impacts of climate change.

When they adopted the Convention, governments knew that its commitments would not be sufficient to seriously tackle climate change. Hence, after two and a half years of intense negotiations, the Kyoto Protocol was adopted at the third Conference of Parties (COP 3) i.e. a meeting of member states in Kyoto, Japan, on 11 December 1997. The Protocol shares the Convention’s objectives, principles and institutions, but significantly strengthens the Convention by committing Annex I Parties (developed countries) to individual, legally-binding targets to limit or reduce their greenhouse gas emissions. Only Parties to the Convention that have also

¹<http://unfccc.int/2860.php>

become Parties to the Protocol (i.e. by ratifying, accepting, approving, or acceding to it) will be bound by the Protocol's commitments.

United Nations Convention to Combat Desertification

The international community has long recognized that desertification is a major economic, social and environmental problem of concern to many countries in all regions of the world. In 1977, the United Nations Conference on Desertification (UNCCD)¹ adopted a Plan of Action to Combat Desertification (PACD). As a result, the question of how to tackle desertification was still a major concern for UNCCD in 1992. The Conference supported a new, integrated approach to the problem, emphasizing action to promote sustainable development at the community level. The United Nations Convention to Combat Desertification (UNCCD), particularly in Africa, was adopted in Paris on 17 June 1994 and opened for signature there on 14-15 October 1994. It entered into force on 26 December 1996.

Desertification {i.e. land degradation in arid, semi-arid and dry sub-humid areas (drylands)} results from both climatic and anthropogenic factors. However, most recent studies (from 1990s) emphasize the importance of abiotic factors, especially the variability of rainfall, which results in ecosystems losing their state of equilibrium. For instance, vegetation changes in the drylands, which were earlier equated with desertification processes, are now ascribed to the influence of rainfall variability. This in essence brings out the inter-linkages of climate variability and land degradation. The UNCCD therefore, calls for the implementation of activities aimed at preventing and/or reducing land degradation, rehabilitating partly degraded lands and reclaiming of degraded lands through National Action Programmes (NAP). Preparation of NAP is an obligation of parties to the Convention. Activities and programmes in NAP emphasize people's participation in project formulation, implementation, and performance monitoring. This is based on the fact that local communities are the primary land managers and therefore key in the implementation of the convention. These programmes should incorporate measures for reducing poverty and other factors known to contribute to desertification.

Stockholm Convention on Persistent Organic Pollutants

Persistent Organic Pollutants (POPs) are chemicals that remain intact in the environment for long periods and become widely distributed. Persistent organic pollutants possess toxic properties, resist degradation, bio-accumulate and are transported, through air, water and migratory species, across international boundaries and are deposited far from their place of release, where they accumulate in terrestrial and aquatic ecosystems. There are health concerns, especially in developing countries, resulting from local exposure to persistent organic pollutants

in particular impacts upon women and, through them, upon future generations. Indigenous communities are particularly at risk because of the bio-magnification of persistent organic pollutants. Contamination of their traditional foods is a public health issue. There is, therefore, a need for global action on persistent organic pollutants.

In February 1997, the Governing Council of the United Nations Environment Programme made a decision to initiate international action to protect human health and the environment through measures that will reduce and/or eliminate emissions and discharges of persistent organic pollutants. *The Stockholm Convention on Persistent Organic Pollutants*¹ (POPs) aims to protect human health and the environment by banning the production and use of some of the most toxic chemicals known to humankind. The Convention became international law in May 2004. The organochlorine (chlorine-containing) chemicals listed as POPs under the convention are:

- ⊙ Nine pesticides (aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex, hexachlorobenzene, and toxaphene),
- ⊙ PCBs (polychlorinated biphenyls),
- ⊙ Dioxins and furans (polychlorinated dibenzo-p-dioxins or PCDDs, and polychlorinated dibenzofurans or PCDFs).

The Stockholm Convention takes cognizant of the pertinent provisions of the relevant international environmental conventions, especially the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal including the regional agreements developed within the framework of its Article 11. It also takes cognisance of pertinent provisions of the Rio Declaration on Environment and Development and Agenda 21 and recognizes that this Convention and other international agreements in the field of trade and the environment are mutually supportive.

Under the convention, manufacturers of persistent organic pollutants have a responsibility for reducing adverse effects caused by their products and for providing information to users, Governments and the public on the hazardous properties of those chemicals. They need to take measures to prevent adverse effects caused by POPs at all stages of their life cycle. The private sector and non-governmental organizations can also make an important contribution to achieving the reduction and/or elimination of emissions and discharges of POPs. The convention reaffirms Principle 16 of the Rio Declaration on Environment and Development which states that "national authorities should endeavour to promote the internalisation

¹<http://www.pops.int/>

of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.”

Parties not having regulatory and assessment schemes for pesticides and industrial chemicals are encouraged to develop such schemes. This should be in line with the development and use of environmentally sound alternative processes and chemicals with the goal of protecting human health and the environment from the harmful impacts of persistent organic pollutants. Together with the Rotterdam Convention on the Prior Informed Consent Principle for Certain Hazardous Chemicals and Pesticides in International Trade, they form key international environmental governance instruments for the management of hazardous substances.

7.5 Kenya's responses to the implementation of the MEAs

United Nations Convention to Combat Desertification (UNCCD)

Since signing the United Nations Convention to Combat Desertification (UNCCD) in 1994 and its ratification in June 1997, Kenya has put in place mechanisms to facilitate implementation of the obligations under the Convention (NEMA, 2005). A National Action Programme (NAP) to combat desertification was prepared, and some effort has been undertaken to mainstream the UNCCD issues into national development agenda. For example the National Development Programme covering the years 2002-2008, clearly articulates issues of desertification and land degradation in relevant sectors. Similarly, there are several programmes and projects relating to sustainable land management, including those in the Arid and Semi-Arid Lands (ASAL).

The NAP has for example, between 2003 and 2006, supported local level community initiatives on household food security, income generation and livelihood improvement programmes. NAP implementation will also benefit from the arid and semi-arid lands development programme, Trust Fund for Combating Desertification and the Constituency Development Fund (CDF). The NAP has been included in the current UNDP/ GOK Country Cooperation Framework under the environment and natural resources programme. It has supported local level community initiative in Turkana, Murang'a, Mwingi, Samburu, Marsabit, Baringo, Malindi, Narok and Garissa districts.

Through the NAP process, the National Environment Management Authority (NEMA) has been able to attract and to build partnerships with a wide range of individual professionals, respectable institutions and the private sector (NEMA, 2005). The strategy has become an important “building block” in terms of professional inputs, focused decision making and fund raising for NAP activities and especially the

events to the commemoration of the World Day to Combat Desertification. There is however, need to improve on the existing capacity to make the process sustainable and especially in terms of technical skills on the Convention. The skills if imparted on NGOs, CBOs and local decision makers will help strengthen the planning, implementation and monitoring of existing projects and the capacity to develop new ones and thus contribute to sound and sustainable environmental governance. Among other approaches, the use of Community Action Plans as demonstrated by the Capacity 21 programme and the NAP Sub-Committee of the Inter-Ministerial Committee on Environment may need to be strengthened.

Kenya is committed to combating desertification and to alleviate poverty. To address these areas of concern, significant financial resources are required to support for example, appropriate technologies and proper land use techniques, which foster improved productivity and hence counter the process of desertification. It is appreciated that poverty alleviation is a long term goal and related investments are in most cases beyond government budgetary provisions. In addition to the strengthening support to the Desertification Convention Trust Fund, the Kenya Government may need to:

- ⊙ Organize local communities affected or in danger of encroachment of desertification into co-operative groups whose main purpose is to raise funds on regular basis depending on their affordability, thus facilitating the availability of funds solely for the intended desertification programs including initiating income-generating projects,
- ⊙ Initiate charity programs, which aim at raising funds for combating desertification through popularisation campaigns. Stakeholders in these areas can initiate projects, which appeal to donors and other funding agencies,
- ⊙ Appeal to NGOs and church organizations to popularise their programs, solely to raise funds intended for desertification programs,
- ⊙ Provide related programme funds through Desertification Control Trust Fund (DCTF) and
- ⊙ Strengthen fund raising mechanisms.

In line with the principles of UNCCD, the DCTF should mobilize resource on its own. Further, there is need to strengthen national desertification funds initiative by building capacity for the Desertification Community Trust Fund (DCTF) as a viable mechanism for national resource mobilisation in support of the implementation of the provisions of the UNCCD in general and NAPs in particular. Contributions should be sought from government, private sector institutions, external donors, voluntary organizations and local communities in cash or in kind. Despite these efforts, the effective implementation of the UNCCD has been hampered by several factors, including those identified in context of the NCSA process, namely weak institutional capacity, lack of sufficient funding for implementing the programmes and policy/legal constraints (GoK, 2006). These short-comings raise serious issues

that point to the need for the assessment of previous and on-going activities related to capacity building, existing policy, institutional and legislative constraints and the strengthening of the relevant institutions.

Convention on Biological Diversity

Kenya ratified the Convention on Biological Diversity in 1994, thus affirming its commitment to conserve and use its biodiversity guided by the provisions of the Convention. Since the Convention entered into force, a wide range of measures and actions required to enhance conservation and sustainable utilization of biodiversity have been identified and implemented. Policies, legislation, institutions and human resources have been put in place to manage the country's wealth of biodiversity. A number of processes have been completed such as the National Biodiversity Strategy and Action Plan (NBSAP) in 1999 and the Biodiversity Data Management (BDM) plan. Biodiversity issues have been reviewed in some detail in Kenya through the National Biodiversity Strategy and Action Plan and National Environment Action Plan (NEAP) and there is now a need for synergy between these issues and desertification, climate change and Persistent Organic Pollutants issues (GoK, 2006, NEMA, 2005). The National Biodiversity Strategy and Action Plan contains considerable detail on capacity building needs, identifying goals and objectives and analysing the gaps between current reality and the aspirations expressed in the goals and objectives. Most of Kenya's obligations deal with the national domestication of the CBD, reporting to its Conferences of Parties (COPs) and the Secretariat, and participating in the further elaboration and enrichment of key policy issues and achievement of consensus of matters that are still unresolved.

United Nations Framework Convention on Climate Change

Kenya ratified the United Nations Framework Convention on Climate Change (UNFCCC) on 30th August, 1994. Since then, the country has undertaken a number of studies related to Climate Change enabling activities. Kenya launched the First National Communication in October 2002. Technology Needs Assessment has also been undertaken (GoK, 2006, NEMA, 2005).

Climate Change issues in Kenya

The challenge for Kenya is to develop strategies, which would promote sustainable development, without compromising increased emission of GHGs. The "First National Communication of Kenya" is the main output of the enabling activity project. In this document, four thematic areas were identified in accordance with the UNFCCC guidelines for the preparation of Non-Annex 1 national communication. These were namely:

- © National GHG Inventory, Abatement, Sinks and Sequestration,

- ⊙ Vulnerability and Adaptation to Climate Change,
- ⊙ Research and Systematic Observation,
- ⊙ Awareness and understanding of climate change issues.
- ⊙ Other broad climate-change issues in Kenya are:
 - ⊙ Clean Development Mechanism,
 - ⊙ Transfer of Environmentally Sound Technologies,
 - ⊙ Synergy with other MEAs,
 - ⊙ Climate Change Mitigation Strategies and Policy Frameworks,
 - ⊙ Convention Negotiation Capacity including issues of Equity.

A brief discussion of each of these eight priority issues is given elsewhere¹. Kenya has conducted studies related to Climate Change Enabling Activities, including:

- ⊙ The United States Country Studies Programme (USCSP) in 1994,
- ⊙ The UNDP/GEF Capacity Building in Sub Sahara Africa to Respond to UNFCCC in 1996,
- ⊙ UNEP/GEF study of IPCC GHG Inventory Methodology Applied to land Use Change in Africa,
- ⊙ UNEP study on the implications of climate change, sea level rise and vulnerability assessment of selected coastlines.

Stockholm Convention on Persistent Organic pollutants (POPs)

Kenya became a party to the Stockholm Convention on Persistent Organic pollutants (POPs) on 23rd December 2004 and is in process of domesticating the convention through assistance from the Global Environment Facility (GEF) with UNEP as the implementing agency. The programme is promoting enabling activities for the development of the National Implementation Plan (NIP) of the Stockholm Convention on POPs. POPs comprise 12 ('Dirty Dozen') chemicals of which 9 are pesticides; one industrial and 2 are by-products. They are also generally categorized as intentionally produced (IPOP) and unintentionally produced POPs (UPOP).

Within the framework of its obligations, Kenya has banned 'most of the POPs pesticides apart from DDT, which is restricted for Public Health use only. Kenya has not imported DDT since 1985. However, stockpiles need to be containerised, collected for safe storage and disposal. Kenya has also developed action plans on various pollutants and is in the process of developing the NIP for the convention. Preliminary inventory of POPs Stockpiles and wastes was carried out within the framework of Environmentally Sound Management of POPs stockpiles and wastes. However, capacity to containerise them is lacking. The country is in the process of developing POPs disposal guidelines.

¹Climate change thematic report on the national capacity needs self-assessment (NCSA) for Kenya

Kenya is a party to the Basel Convention on trans-boundary movement of hazardous waste and their disposal and is in process of domesticating this convention. To comprehensively fulfil some of the obligations, Kenya participates in arrangements for regional and sub-regional centres for capacity creation and transfer of technology. Apart from stockpiles some of the neighbouring countries may be using DDT, which may pose a threat to Kenya's fragile export market for animal, fish and plants. Therefore, there is need to create capacity in customs control on border entry of chemicals and also capacity for surveillance and monitoring.

7.6 The Need for Integrated Implementation of MEAs

From the overview of three Rio Conventions and the Stockholm Convention (MEAs), it is apparent that they all support the concept of sustainable development. They reckon that mankind has to learn how to alleviate poverty for the huge and growing numbers of people without destroying the natural environment on which all human life depends. We have to develop economically in a fashion that is sustainable over a long period of time. Mankind has to find methods for living well while using critical natural resources at a rate no faster than at which they are replaced. The MEAs also call for developing and using environmentally sound technologies and know how. They emphasize the need to educate people as they are the key to their implementation, being primary land managers and who suffer the most from any unsustainable resource management.

For instance, biological biodiversity of drylands is of particular significance and value. Vegetation of dryland ecosystems consisting of highly adapted herbaceous and woody species, form a unique ecological association of significant biodiversity. These vegetation types are able to maintain resilience, through the evolution of special adaptive features to droughts. They also play a crucial role in soil and sand stabilisation and protection and carbon dioxide sequestration by acting as carbon "sinks" hence minimizing the impacts climate change. Indigenous vegetation is also the primary source of pastoral agro-pastoral economy, accounting for a great proportion of livestock feed, materials for construction, fuelwood, shelter, medicines and pharmaceutical products. Sustainable management of this vegetation is therefore, important in combating desertification, biodiversity conservation, mitigating the impacts of climate change and ensuring sustainable livelihoods. The livelihood of pastoral communities continues to depend closely on this biodiversity. Hence its conservation and sustainable use is central to livelihood development and poverty alleviation. However, long-term changes in temperature and rainfall patterns can have serious impacts on biological diversity of drylands. For example, dryland ecosystems have frequent disturbances in form of recurrent droughts, due to low and erratic rainfalls making their environments rather non-equilibrium during the drought periods. This enhances land degradation in such ecosystems and consequently, loss of biodiversity. This demonstrates the strong scientific and

ecological linkages among the MEAs that should be recognized at program and community level in terms of implementation. In deed, the emerging perspectives to explain dryland dynamics focus on a conceptual model that emphasizes interactions among climate, plants, herbivory and human beings. For example, according to this school of thought, in arid zones, interactions between rainfall, plants, and grazing explain better the responses of plants to grazing than grazing or rainfall alone (Oba et al, 2000).

Thus, to ensure a coordinated, integrated and cost-effective implementation of the provisions of the MEAs and achieve the goal of sound and sustainable environmental governance, Kenya through NEMA has developed an action plan (GoK, 2006). The mission of the Action Plan is to “enhance Kenya’s capacity to contribute effectively to global environmental management”. The guiding principles for the Action Plan include:

- ⊙ Ensuring national ownership and leadership, and the use of national or regional experts;
- ⊙ Using existing coordinating structures and mechanisms;
- ⊙ Paying due attention to provisions and decisions of the four conventions, as they relate to capacity building;
- ⊙ Ensuring multi-stakeholder participation, consultation and decision making, through appropriate institutional arrangements;
- ⊙ Building on ongoing / existing work relevant to NCSA, for instance through GEF supported enabling activities, and national reports to the conventions;
- ⊙ Adopting a holistic approach to capacity building that addresses capacity needs at the systemic, institutional and individual levels while integrating such capacity building into wider sustainable development efforts, to the extent possible and appropriate, and
- ⊙ Adopting a long-term approach to capacity building within the context of sustainable development.

In addition, it is anticipated that the Action Plan will be integrated into existing national policies, strategies and environmental frameworks and programmes in order to receive the priority it deserves in the national planning and budgeting processes. The overall objective of the 5-Year Action Plan is to complement Kenya’s efforts to improve its capacity for the implementation of the MEAs and thereby contribute to the national economic growth and poverty eradication; and to contribute to global ecosystem integrity. Five capacity building intervention areas were identified as priority issues and form the main elements for the NCSA Action Plan, thus:

i. Mainstreaming MEAs into national policies and legal frameworks

One of the main barriers to effective implementation of the MEAs is the fact that they are not considered in context of national priorities, particularly in the

budgeting process. This is primarily because they are not integrated into national development policies, strategies and programmes. For example the issue of land degradation is central to national food security strategy, yet the issue is mentioned as a side issue in the Kenya Poverty Reduction Strategy Paper (PRSP). The same happens in the case of CBD and UNFCCC. Integration of the MEAs thus identified as a key priority area in context of the NCSA, in order to ensure global environment issues receive priority in national budgetary processes.

Box 1: Potential for mainstreaming and tapping global resources

Periodic review of national and district development frameworks and the annual budgeting process are participatory and allow integration of emerging issues and priorities. This is conducive for mainstreaming and prioritising MEAs issues in national planning and budgeting processes in order to enhance resource allocation for their implementation. In addition, the decentralized management of development programs adopted by government enables more financial resources to reach targeted areas and populations, thus enhancing effective use of the available resources. At the global level, designation of land degradation and deforestation as a new GEF focal area has increased the possibility for mobilizing additional resources to address synergistic issues of MEAs.

Source: Government of Kenya, 2006

ii. Information and public awareness on MEAs

All the MEAs have an obligation requiring the collecting, analysis and reporting information to the respective Secretariats. They all are involved in the assessment and monitoring of the environment to determine the status and rates of change in environmental conditions. Currently, most of this takes place at individual MEA level, giving way to duplication of effort and waste of resources. This calls for joint information gathering and analysis, as well as information sharing/exchange to promote efficiency and cost effectiveness. At the same time the NCSA recognizes the need for greater public awareness on MEAs particularly for policy makers to promote informed decision-making.

iii. Policy and legal reforms to streamline coordination and MEA implementation

The NCSA process brought to the fore the missing links between different MEA institutions in policy making and its implementation, although they are addressing common and related issues. Only ad hoc, fragmented and disjointed approach

has been applied so far by different institutions. Different MEAs are being handled in different ministries or units within a ministry. This approach does not promote coordinated implementation. Neither does it allow for adequately addressing issues in cross-sectoral and multi-sectoral context. The overlapping or conflicting functions and insufficient coordination among different institutions has not helped Kenya in the implementation of MEAs. Similarly, there is no mechanism at the moment to ensure coordinated approach to legal reforms needed to ensure consistency and harmonized implementation of MEAs, including the enforcement of rules and regulations.

iv. Institutional capacity strengthening for implementation of MEAs

The most critical constraint affecting implementation of MEAs is the limited managerial and technical capacity of the human resources in the relevant areas of MEAs. The staffing and facilities of existing training institutions are limited and cannot adequately provide the diverse skills required, given the broad nature of environmental issues. Budgetary constraints experienced by government departments and institutions responsible for environmental management affect their ability to train available manpower. Stringent control of national expenditure continues to restrict recruitment of new manpower in all government sectors, and has more often resulted into further reduction of the available trained manpower. However, the increasing number of certified institutions for higher learning (Government of Kenya, 2006) could be used as a springboard to integrate the required technical and managerial training programs to support implementation of MEAs.

v. Capacity for Sustainable Land Management (SLM) at local community level

The underlying causes of desertification in Kenya include rapidly increasing human population, lack of consideration for appropriate land uses, lack of land and land use policy, lack of effective implementation of appropriate policies and legislation (e.g. drought policy) and social and socio-economic factors, especially increased poverty. Similarly, the resulting effects/manifestations of desertification include loss of land productivity and increased poverty, deforestation and forest encroachment, loss of biodiversity and environmental sustainability, increased soil erosion and reduced opportunities for employment and generation of incomes. Clearly therefore, capacity for community-based natural resources management is imperative for SLM. It is equally imperative that all stakeholders and especially local communities be increasingly involved in decisions on environment and natural resources management. Failure to do so could lead to adopting unsustainable approaches with obvious risks of environmental degradation, increased desertification and increased poverty.

Box 2: National Environment Management Authority (NEMA)

The National Environment Secretariat (NES) was transformed to the National Environment Management Authority in 2003. It is the body under the Environmental Management and Co-ordination Act (EMCA, 1999) responsible for the inter-sectoral co-ordination of all environmental issues. It is largely involved in policy formulation and monitoring of implementation. NEMA is responsible for the implementation and monitoring of all the three Rio Conventions and the Stockholm Convention on POPs. The Authority discharges this responsibility through the Inter-Ministerial Steering Committee that includes non-governmental and relevant governmental institutions, and is supported in its work by national consultation mechanisms. The Inter Ministerial Steering Committee provides overall technical support through NEMA on matter related to the respective MEAs.

(Source: Government of Kenya, 2006)

It is expected that the implementation of the Action Plan under the coordination of NEMA and with the involvement of all the focal MEA units and key national institutions, including the private sector, civil society and communities will lead to sound and sustainable environmental governance in Kenya. There should however be close collaboration with the on-going Capacity Building Initiatives supported by the EC/UNDP in the implementation process.

7.7 Summary and Conclusions

New scientific evidence indicates that many global ecosystems are reaching dangerous thresholds that raise the stakes for policymakers. In Kenya, a general overview of key environmental components: population dynamics, human settlements and poverty; land use and biodiversity; water, human and environmental health; energy, pollution and waste management; tourism, trade, industry and mining; climate and climate change; and environmental governance, information and funding sends mixed signals. The overall indication is that whereas significant progress has been made, loss of biodiversity, land degradation and environmental pollution continue to be major problems. In particular, there is a dire need to strike the correct balance between economic and environmental goals.

Kenya is a signatory to the major multilateral environmental agreements (MEAs) which were reinforced at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil, in 1992. These agreements were

built around a set of principles and obligations related to the protection of the Earth and to the improvement of the quality of life of its inhabitants through sustainable development. Their implementation and domestication in Kenya, however, is beset by many problems, among them the lack of adequate capacity at all levels. These challenges need to be addressed comprehensively in order to achieve the goal of sound and sustainable environmental governance.

7.8 Review Questions

- i. Using examples discuss the relevance of Multilateral Environmental Agreements in the management of environmental resources in Kenya.
- ii. Discuss the linkages between the provisions of Agenda 21 and the Rio Conventions.
- iii. Multi-lateral Environmental Agreements in Kenya have been undertaken as mere public relations activities. Discuss using practical examples.
- iv. Discuss what you would consider the best approaches in the implementation of Multilateral Environmental Agreements in Kenya.

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