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Report of the First Negotiations meeting for the Amendment of the Nairobi Convention Protocol concerning protected areas and wild fauna and flora in the Eastern African region

15 – 18 November 2022 Antananarivo, Madagascar

FIRST NEGOTIATIONS MEETING FOR THE AMENDMENT OF THE NAIROBI CONVENTION PROTOCOL CONCERNING PROTECTED AREAS AND WILD FAUNA AND FLORA IN THE EASTERN AFRICAN REGION

MEETING REPORT









WHY THE AMENDMENT

There are advantages in a regional approach to addressing some environmental issues such as marine biodiversity. Such regional arrangements facilitate policies and rules appropriate to the needs of the Western Indian Ocean. Secondly, political consensus may be obtainable at a regional level which could sometimes be a challenge at global level, and thirdly, cooperation in enforcement, monitoring and information exchange may be easier to arrange. In relation to national approaches, a regional approach is beneficial as it creates standards to which national frameworks can aspire or adapt. A regional protocol also recognizes the interconnectedness of ecosystems and processes.

The Protocol Concerning Protected Areas and Wild Fauna and Flora of the Eastern African Region as adopted in 1985 "provided for the protection and rational development of the living resources of the region, which are a natural heritage with important economic and social values and potential, through the preservation of habitats, the protection of species, and the careful planning and management of human activities that affect them." The Protocol recognises the "danger from increasing human activities" and stresses the importance of protecting and improving the state of the wild fauna and flora and natural habitats of the WIO region "among other means by the establishment of specially protected areas in the marine and coastal environment." However, the Protocol fails to elaborate in detail on the dangers and threats to marine and coastal areas and biological diversity in the region, and the interconnectedness of the habitats, ecosystems and species. The Protocol also fails to acknowledge existing international and regional legal and policy instruments, some of which were developed after the protocol was adopted. The three planetary crises of pollution and waste, climate change and biodiversity loss have further compounded the integrity of coastal and marine resources across the WIO region.

The amendment of the Protocol and its annexes is therefore being developed pursuant to pertinent decisions of the Conferences of Parties to the Nairobi Convention that have recommended that this Protocol be reviewed and amended to strengthen its legal framework for an effective regime for biodiversity conservation, and management of marine and coastal ecosystems across sectors and national boundaries.

The amendments also aim to provide a stronger framework for addressing current and emerging threats to the coastal and marine biodiversity from threats such as anthropogenic pressures (growing intensity of human settlements and unsustainable socioeconomic activities, coastal development, habitat degradation), natural disasters and climate change. The review of the Protocol and its annexes shall be informed by science, taking into account the latest scientific information available in the region such as from the Marine Protected Areas Outlook, Critical Habitats Outlook, and the Sharks and Rays Review Report. The amendment must also take cognizance of the post 2020 global biodiversity framework discussions and anticipated targets. The amendments require involvement of relevant stakeholders.

In preparation for negotiations of the Protocol, the Nairobi Convention developed a report highlighting justification for review and amendment of the Protocol in 2021 and shared for further technical review by the Focal Points to the Nairobi Convention in February 2022. The report took note of new and emerging environmental issues as well as ongoing global and regional discussions that should be considered in the review of the Protocol. The report elaborated on the justification for amending the Protocol including the why and the how of amending specific articles.









The justification was cognizant of emerging reports on the state of critical habitats, species, and ecosystems of the Western Indian Ocean, and recent global instruments including CITES, CBD, CMS and ongoing discussions on protected areas, wild fauna and wild flora, Sustainable Development Goals, Aichi Biodiversity Targets, CBD post 2020 Global Biodiversity Framework, the Paris Agreement, African Union Agenda 2063, and on negotiations for biodiversity conservation in areas beyond national jurisdiction. Potential areas for review and proposed amendments were made directly on the 1985 Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region. The proposed amendments to the Protocol and its annexes are being presented for the first negotiation by the Ad hoc Legal and Technical Working Group as nominated by the Contracting Parties.

NEGOTIATION SKILLS

Experience and knowledge in negotiation skills are a perquisite for effective participation at negotiations for amending the Protocol. For a sustained impact, capacity building is an important trigger for developing and increasing negotiation skills and technical knowhow that is needed for amending the Protocol and for fostering national, regional and global objectives on marine biodiversity. In addition to building national and regional negotiating skills, effective negotiations require relevant available information prior to meetings on issues of the Protocol. Negotiators require up to date information on the state of marine biodiversity to respond effectively in the negotiations. A short training on negotiation skills and etiquette will be offered at the first negotiations meeting. Technical documents have been shared at this link.

It will be important to reflect further on some key questions related to Protocol at the national level. What are the conservation gains since the Protocol was enacted in 1985 and what contemporary processes are in place to guide future conservation policy and actions at national and regional level? What has been the progress to (i) reduce loss of critical habitats, (ii) to increasing protected area coverage and their representation for ecological connectivity. (iii) What efforts have been made to minimize threats to ecosystems, ensure genetic diversity, and maximise conservation and socioeconomic outcomes. What is the national biodiversity status of Marine Protected Areas in supporting conservation strategies that promote persistence of species population, offshore habitats such as seamounts, Key Biodiversity Areas (KBAs), and Important Bird Areas? What percentage of larval fish dispersal corridors and spawning sites of transient reef fish species are protected by each Contracting Party? What is the status of locally managed marine areas that support successful socioeconomic outcomes and sustainable fisheries? What is the extent and status of the marine ecosystems including fisheries in the areas beyond the national jurisdiction (ABNJ)? What is the significance of the ABNJ on the governance of the marine and coastal resources of a given Contracting Party?

Other areas of consideration prior to the negotiations would include a look at pressures and drivers prevalent in the Western Indian Ocean. For example, what are the impacts of climate change, sea level rise, damming and water abstraction on the coastal and marine ecosystems and livelihood of coastal communities in the WIO? How is overharvesting of most of the coastal natural resources impacting on the critical coastal and marine ecosystems? How does the major shift of emphasis on the Blue Economy and infrastructure development projects by a number of Contracting Parties relate with the coastal and marine ecosystems and livelihoods?

Negotiators will be interested to identify key strategies that are in place for achieving national and regional biodiversity conservation and sustainable development. Also, it will be important to reflect on the roadmap for developing and achieving marine biodiversity targets and indicators, socioeconomic









objectives and complementary policies for climate change adaptation and sustainable development goals. What national goals are aligned to the emerging marine biodiversity indicators and targets in post-2020 Global Biodiversity Framework, such as the WIO ecosystems indicator monitoring framework - to support mainstreaming of biodiversity conservation at national level?

Some final thoughtful questions: Does amending the Protocol require a regional governance framework to integrate national initiatives, goals, and objectives into broader regional and global goals? Which transboundary conservation initiatives between countries are required to facilitating equitable protection efforts? What areas of cooperation within the WIO region are needed to ensure a better representation of biodiversity and ecosystem processes? Which quality and sustainable development targets are needed to better harmonise regional goals and national initiatives such as the blue economy and marine spatial planning? Which common indicators are needed for conservation, sustainable development, and climate change adaptation at national and regional level? What capacity needs and precautionary measures are needed for achieving biodiversity conservation and sustainable development in the region? What will be the reporting mechanisms by the Parties on progress in the implementation of the Protocol?

It is envisaged that the negotiations and resultant amendments will effectively lead in the conservation and sustainable utilisation of the region's coastal and marine resources, strengthen the resilience of ecosystems supporting a healthy and productive ocean, and halt biodiversity loss. It is planned that the texts for the amendment to the Protocol and its Annexes will be negotiated, and later presented for consideration and possible adoption at a Conference of Plenipotentiaries.

OBJECTIVES OF THE FIRST NEGOTIATIONS MEETING

- To introduce negotiations skills and etiquette for amending the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, including Strategic negotiations issues
- b. To justify the amendment of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region
- c. To give technical observations, analysis and review of the draft Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region addressing coherence, redundancies, consistency, and ease of communication including identifying potential areas of technical solutions d.To successfully hold the First negotiation meeting of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region

SESSION I

Welcoming remarks by Nairobi Convention Secretariat

- Mr. Dixon Waruinge, Head of the Nairobi Convention Secretariat called the Meeting to order. Mr.
 Waruinge welcomed all the participants to the first Negotiations meeting for the Amendment of the
 Nairobi Convention Protocol concerning protected areas and wild fauna and flora in the Eastern
 African region. Mr. Waruinge thanked the Government of Madagascar for hosting the first
 negotiations meeting and for its hospitality.
- Dixon acknowledged the support of Contracting Parties to the Nairobi Convention and the presence
 of the accredited technical and legal experts and other delegates attending as observers. He also
 recognized the support from WIO-C and FARI in reviewing the Protocol. He recognized the support









of the programme on capacity building related to Multilateral Environmental Agreements (MEAs) in the African, Caribbean and Pacific (ACP), a partnership between the European Commission (EC), the ACP Secretariat, UNEP and FAO. He mentioned Phase III of the ACP MEAs Programme was supporting the strengthening of the governance framework of the Nairobi Convention and its associated protocols, and the development of a regionally representative network of MPAs.

- 3. Dixon mentioned that the Nairobi Convention (as amended 2010), together with its Protocol concerning Protected Areas and Wild Fauna and Flora and the Protocol concerning cooperation in combating Marine Pollution in Cases of Emergency (Emergency Protocol) in the Eastern African Region, was enacted in Nairobi on 21 June 1985. 2010 he added that a Protocol for the Protection of the Marine and Coastal Environment of the Western Indian Ocean (LBSA Protocol) was adopted alongside the Amended Nairobi Convention. These instruments collectively constitute the regional legal framework for protecting and conserving the marine and coastal environment of the Western Indian Ocean (WIO) region.
- 4. The head of the Nairobi Convention Secretariat highlighted the need for revising the Protocol on protected areas. He mentioned that the Protocol recognizes the danger paused by human activities and why establishing specially protected areas in the marine and coastal environment can improve the state of the wild fauna, flora, and natural habitats of the WIO region. Dixon highlighted the shortcomings of the Protocol as it is. 1) It fails to elaborate in detail on the dangers and threats to marine and coastal areas and biological diversity in the region, and the interconnectedness of the habitats, ecosystems, and species; 2) It fails to acknowledge existing international and regional legal and policy instruments, some of which were developed after the Protocol was adopted.
- 5. In his concluding remarks, Dixon reiterated a regional approach to addressing coastal and marine environmental issues in the WIO region. Mr. Waruinge then invited the Nairobi Convention National Focal Point in Madagascar, who invited the Minister of Environment and Sustainable Development, Government of Madagascar, to officially address and open the negotiations meeting.

Opening Address by Honourable Marie Orléa Vina, Minister of Environment and Sustainable Development, Government of Madagascar.

- 6. The official opening of the first negotiations meeting for Amending The Nairobi Convention Protocol Concerning Protected Areas and Wild Fauna and Flora in The Eastern African Region was done by Honourable Marie Orléa Vina, Minister of Environment and Sustainable Development, Government of Madagascar, who was also the Chair of the Bureau of the Nairobi Convention.
- 7. The Chair of the Bureau highlighted the need to amend the Protocol, noting that it has been stated severally by the Contracting Parties to the Nairobi Convention since 2001 and to the 10th Conference of Parties in November of the previous year. In reference to the assessments by IPBES, she noted that climate change is real and forcing disabling shifts in nature and biodiversity.
- 8. Honourable Orléa Vina mentioned that Madagascar, with ca. 65 percent of its 26 million people inhabiting coastal areas, had pioneered an approach for protecting marine areas through a rapid increase in the number of Locally Managed Marine Areas (LMMAs). She added over 200 LMMAs in the country, alongside 22 Marine Protected Areas. To safeguard these gains, the chair emphasized the need for continued collaborative research, enabling policy and legal environment, and capacity building of coastal communities to secure the LMMAs.









- 9. She further gave an overview of the Nairobi Convention, the finalization of text on ICZM protocol, and the need to incorporate the post-2020 Global Biodiversity Framework, the status of sharks, rays, and related migratory species which are not included in the Nairobi Convention. The chair highlighted the challenges facing Madagascar, including climate change, rising sea levels, loss of biodiversity, flora, and fauna, and scarcity of scientific data to inform policy. She also emphasized the interlinkages to other protocols on protected areas.
- 10. The chair urged the negotiators to strengthen Nairobi Convention by delivering a state-of-the-art biodiversity Protocol. After that, Honourable Orléa Vina declared the first negotiations meeting officially open.

Adoption of Agenda

- 11. The Secretariat of Nairobi Convention through Mr. Waruinge made an intervention in regard to the agenda in which he requested session III to be moved forward to session II.
- 12. The amendment to the agenda was agreed, and the agenda was adopted by parties

Presentation to update on the post 2020 Global Biodiversity Framework, the elements of the framework, indicators and targets.

- 13. Balakrishna Pisupati (Dr), Head of Biodiversity, Land and Governance Programme and Coordinator of ACP-MEAs programme, gave CBD COP 15 elements versus suggested elements in the Protocol and discussed post-2020 Global Biodiversity Framework, goals, targets, and indicators.
- 14. The Chair of the Bureau, while commenting on the presentation, emphasized the need to take note of the capacity needs of each Contracting Party in the implementation of the Protocol, the local impacts dimension integrated into the Protocol, and the contribution of research and data.

Presentation to inform on the status of sharks and rays and related migratory species in the Western Indian Ocean.

- 15. Mr. Rhett Bennett (Dr.) from Wildlife Conservation Society in South Africa and a member of WIO-C made a presentation on Sharks, Rays and other migratory species in the WIO. The presentation noted that Sharks, Rays and Marine Mammals were not included in the Convention and there was need to have their protection incorporated in the Amended Protocol.
- 16. He emphasized the need for strengthened interlinkages in biodiversity protection related protocols that parties to the Convention are parties to.

Presentation on the recent assessment report and outlook on Marine protected Areas in the Western Indian Ocean

17. Mr. Jared Bosire (Dr.), Project Manager, WIOSAP project, presented on the Marine Protected areas outlook in the WIO. The presentation highlighted MPA areas in WIO, their status, critical habitats, and contribution of scientific research on marine and dashboard for data sharing and stakeholders' involvement in the outlook. Mr. Bosire also presented the outlook structure, challenges, key findings, and recommendations.









Presentation to provide an overarching logic and justification for amending the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region.

18. Mr. Akunga Nebat Momanyi (Dr.), Consultant and Faculty member at the University of Nairobi Maritime Centre, presented justification for amending the protocol. The justification was based on the concept note of the protocol that was circulated, COP 3/6, COP 4/7, COP 8/9, and the four protocols and its annexes, AU 2063 Agenda, Cartagena protocol, CBD, Agenda 21 on SDGs, Africa integrated Maritime strategy, integrated ecosystem approach and strengthening legal and policy framework.

Training on Negotiation skills and etiquette

19. Mr. Balakrishna Pisupati made the presentation on Understanding Negotiations under the United Nations. He looked at the processes, i.e., bilateral and multilateral, went through the process of good negotiations, the system, processes, and mechanism of multilateral negotiations, and the functions of MEAs. Dr. Pisupati looked at the outputs of negotiations, multiple interactions, and multiple groups; the complexity in negotiations that can be formal or informal, effective participation, documents and information on negotiations, attributes of a good negotiator, negotiating text(bracketing), the language of negotiating text and tips for negotiations.

Overview of proposed articles for revision

- 20. Mr. Akunga gave a synopsis of the draft articles of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, drawing attention to the key issues and making reference to COP Decisions. He stated that the essence is to provide input and own the protocol, and the presentation was divided into five parts.
 - Part I; General Provisions
 - Part II: Protection of species
 - Part III: Protected areas
 - Part IV; Provision common to protected areas and species
 - Part V: Institutional and final provision
- 21. He noted that the Secretariat re-arranged the articles and prepared a draft proposal. The presentation was, therefore, indicative. The chair of the session, Mr. Jacquis Rasoanaina, sought the initial views of the Plenary before referring the draft proposal for text review. It was agreed that the parties have a look at the proposed draft vis-à-vis the convention.
- 22. An intervention was made by Kenya, who proposed adjournment of the meeting, and South Africa, Seychelles, Mauritius, Comoros, Mozambique, and Madagascar supported it. The meeting was adjourned, and parties agreed that the meeting to revise the text start the following day, 16th November, at 8:00 am.

Revision of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region - Changes to the zero draft of the Protocol are available online here









CLOSING REMARKS

Closing Statement - Mr. Jared Bosire, WIOSAP, Nairobi Convention Secretariat

- 23. Mr. Jared Bosire, representing Nairobi Convention Secretariat said that it would be beneficial if the Protocol on Protected Areas could be aligned as far as possible with the global processes such as UN 2030 Agenda on Sustainable Development, Decade on Ecosystem Restoration, Decade of Ocean Science for Sustainable Development and the Global Biodiversity Framework
- 24. Mr. Bosire recognized that the completion of the Protocol and its adoption were among the most important tasks going forward.

Closing Statement – Director of Environment, Ministry of Environment and Sustainable Development, Madagascar

- 25. The Director General congratulated the delegates, session moderators, presenters, and all Contracting Parties, for making the first negotiations meeting a success. In addition to protecting and preserving the ecological integrity, the Protocol would also enhance planning and management measures of Protected Areas.
- 26. The Government of Madagascar supports the Nairobi Convention to deliver the Protocol and would continue to support, collaborate, and partner with other Contracting Parties and all other stakeholders in the western Indian Ocean Region to address the three planetary crises: (i) climate change, (ii) biodiversity, and (iii) habitat loss and pollution.
- 27. The Director General offered Madagascar's request to host the second negotiations meeting for the Protocol on Protected Areas.
- 28. He noted the significant achievements of revising the text developed by the Secretariat of Nairobi Convention. He expressed thanks to all the delegates and the Secretariat in the successful organization and running of the Meeting, and declared the first negotiations meeting closed.

All presentations and summary recommendations are accessible at here









ANNEX 1: PROVISIONAL AGENDA

The First Negotiation Meeting for amending of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region

Date: 15-18 November 2022 Antananarivo, Madagascar

DAY 1: TUESDAY, 15 NOVEMBER 2022

| Session 1: | Welcoming Address, Opening Remarks and Organizational matters |
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08.30 - 9:00: Registration

09.30 - 10:00: Welcoming remarks by Nairobi Convention Secretariat

Introductions by Country Delegations

Remarks by the ACP MEAs 3 Programme Coordinator

Welcome by the Government Madagascar

Official Opening speech by the Honourable Minister Ms Marie-Orléa VINA, Ministry of Environment and Sustainable Development (MEDD), and Chair of the Bureau of the Nairobi Convention

| Session II: | Organization of matters: Chair - Madagascar |
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10:00-10:30: Election of Officers

Adoption of Agenda

10:30 - 11:00 Health Break and group photo

| | Session III: Technical presentations: Chair – Madagascar |
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| 11:00-11:20 | Presentation on the ICZM protocol. |
| 11:20-11:40 | Presentation to update on the post 2020 Global Biodiversity Framework, the elements of the framework, indicators and targets. |
| 11:40-12:00 | Presentation to inform on the status of sharks and rays and related migratory species in the Western Indian Ocean. |
| 12:00-12:20 | Presentation on the recent assessment report and outlook on Marine protected Areas in the Western Indian Ocean |
| 12:20-12:40 | Presentation to provide an overarching logic and justification for amending the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region. |
| 12:40-13:00 | Discussions on the 5 presentations |
| 13:00-14:00 | Lunch break |
| 14:00-15:00 | Training on Negotiation skills and etiquette |









| 15:00-15:30 | Discussions on the training |
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| SESSION IV: | Overview of proposed articles for revision |
| 15:30-16:30 | A synopsis of the draft articles of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, drawing the attention to the key issues, and make reference to COP Decisions. |
| 16:30-17:00 | Health/Coffee Break |
| | END OF DAY 1 |
| DAY 2 & 3 | 16 – 17 NOVEMBER 2022 |
| SESSION V | Negotiations of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region |
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| Day 4: | Friday 18 November 2022 |
| Day 4: SESSION V | Friday 18 November 2022 Negotiations of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region |
| • | Negotiations of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region |
| SESSION V | Negotiations of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region |
| SESSION V 12:00 - 12:20: | Negotiations of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region Closing remarks by the Head of the Nairobi Convention secretariat |
| SESSION V 12:00 - 12:20: 12:20 - 12:40 | Negotiations of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region Closing remarks by the Head of the Nairobi Convention secretariat Closing remarks by Madagascar |
| SESSION V 12:00 - 12:20: 12:20 - 12:40 12:40 - 13:00 | Negotiations of the Draft Text of the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region Closing remarks by the Head of the Nairobi Convention secretariat Closing remarks by Madagascar Closing Statement by the Chair of the Bureau |











ANNEX 2: LIST OF PARTICIPANTS

15 - 18 Nov 2022, Madagascar

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