

DRAFT

**REVISED PROTOCOL ON [PROTECTED AREAS AND] BIOLOGICAL  
DIVERSITY IN THE WESTERN INDIAN OCEAN REGION.**

Second Negotiations  
meeting **13-15 September**  
**2023** Antananarivo,  
Madagascar

As prepared by Secretariat  
and Experts on 30<sup>th</sup>  
November- 1<sup>st</sup> December  
2023  
Mombasa, Kenya

**Proposed title: “PROTOCOL CONCERNING PROTECTED AREAS AND ~~WILD-FLORA AND FAUNA~~ BIOLOGICAL DIVERSITY IN THE WESTERN INDIAN OCEAN REGION.”**

*The Contracting Parties to this Protocol,*

*Being Parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean Region, (the Convention),*

*Recognizing the 1982 United Nations Convention on the Law of the Sea and its implementing agreements; the 1992 Convention on Biological Diversity; the 2003 revised African Convention on the Conservation of Nature and Natural Resources, 2016 African Charter on Maritime Security and Safety and Development in Africa and other relevant instruments,*

*Acknowledging that marine and coastal biodiversity provides important ecosystem goods and services of economic, social, scientific, cultural, traditional, educational, recreational and aesthetic values that need to be protected and sustainably managed,*

*Conscious of the threats to marine and coastal biological diversity from human and natural factors causing destruction and degradation of ecosystems and loss of habitats, species and genetic resources,*

*Recognizing the need to address, in a coherent and cooperative manner, biodiversity loss and degradation through the use of area-based management tools and enhanced cooperation, to conserve and sustainably use marine and coastal biodiversity -in the Western Indian Ocean region,*

*Determined to implement this Protocol for the benefit of present and future generations by protecting, conserving and sustainably using marine and coastal biodiversity and maintaining the integrity of ocean ecosystems.*

*Have agreed as follows:*

## **PART I: GENERAL PROVISIONS**

### **Article 1:**

#### **DEFINITIONS**

For the purposes of this Protocol;

“Area-based Management Tool” means a tool, including a marine protected area, for a geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular conservation and sustainable use objectives in accordance with this Protocol

“Ballast water” means water with its suspended matter used to provide stability to ships and other maritime vessels when they are not carrying a full load of cargo, and is usually taken on board at the beginning of a journey and discharged at the port where the cargo is to be loaded;

or

Suggestion from the Secretariat:

Ballast Water “means water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of the ship “This is the definition used in IMO Ballast Water Convention

“Biofouling” is the process whereby invasive biological communities or species develop on submerged physical structures such as ships’ hulls, propellers, fishing gear, mariculture cages or marine debris;

“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;

“Convention” means the Amended Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean region\_};

“Contracting Party” means any state or regional economic, political or other organization of which at least one, -,member is a coastal state of the Western Indian Ocean region and which exercises competences in the fields covered by this Protocol, and which has become a party to this Protocol”

“National Focal Point” means the national focal point referred to under article 21 of this Protocol and in accordance with article 17 of the Convention

“**Organization**” means the body referred to in paragraph (c) of article 2 of the Convention;

## Article 2 Obligations General

1. The Contracting Parties shall, within their capabilities, take all appropriate measures to maintain and sustain essential ecological processes and life support systems, to preserve marine and coastal biological and genetic diversity, and to ensure the sustainable utilization of natural resources under their jurisdiction.\_-

*[Suggestion from Secretariat]:*

*The Contracting Parties shall take all appropriate measures to ensure the protection and sustainable use of marine and coastal biodiversity including diversity within species and ecosystems and marine genetic resources under their jurisdiction).*

This would align with language used in CBD and BBNJ Agreements.

2. The Contracting Parties shall endeavour to protect and preserve rare or fragile ecosystems, - rare and threatened species -and their habitats.
3. The Contracting Parties shall take all appropriate measures to restore degraded ecosystems.

**[Suggestion from Secretariat: to add a new paragraph 4 to align with CBD-GBF]**

*The Contracting Parties shall, in accordance with relevant international law, co-operate in activities related to marine genetic resources for purposes of developing capacity on marine scientific research, scientific knowledge and understanding, technological innovation, digital sequencing information to promote the conservation and sustainable use of marine biological diversity.*

4. -The Contracting Parties shall develop and implement national marine and coastal conservation strategies and action plans and mainstream into sectoral and intersectoral policies and, where appropriate, align such strategies to regional frameworks on coastal and marine conservation.

5. The Contracting Parties shall consider local communities dependent on marine and coastal resources in developing national coastal and marine conservation strategies and action plans.

2.6. The Contracting Parties shall protect and, conserve areas of ecological or cultural value by establishing and managing protected areas and enhancing area-based conservation measures.

**[Suggestion from Secretariat]:**

*The Contracting Parties shall establish and manage protected areas and enhance or apply area-based conservation measures to protect and conserve areas of ecological or cultural value.*

*Drafting would read better where ecological and cultural values are conserved within protected areas and use of area-based conservation measures.*

7. Each Contracting Party shall take national measures to assess, monitor and regulate activities having adverse effects on marine and coastal biological diversity within the jurisdiction of the respective party and in accordance with international law and shall co-operate with other Parties in the enforcement of the regulated activities.

**[Note from Secretariat]:**

- *Changed as the use of marine and coastal biological diversity is a broader term.*
- *Article reformulated to flow from national regulation to regional cooperation based on comments from Contracting Parties*

8. The Contracting Parties shall co-operate, bilaterally or multi-laterally or through competent international and regional organizations, in the conservation and sustainable use of marine and coastal biological diversity.

**[Suggestion from Secretariat]:**

9. The Contracting Parties shall cooperate under this Protocol for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including through strengthening and enhancing regional approaches and cooperation, and promoting cooperation with relevant global, regional, subregional and sectoral frameworks and bodies in the achievement of the objectives of this Protocol.

*This paragraph will bring into conformity this Protocol with the BBNJ treaty under general obligations found in article 8 of the treaty.*

### Article 3

#### **Geographical Scope.**

1. The geographical scope of this Protocol is as defined in Articles 1 and 2 of the Convention and includes:

the seaward limit of the coastal zone extending to the outer limits of the exclusive economic zone and continental shelf as recognized by international law including the seabed and its sub-soil thereof;

2. Notwithstanding paragraph 1, a Contracting Party may define its seaward limit to an extent that is less than the outer limit of its exclusive economic zone.

#### **[Note from Secretariat]:**

- *Scope has been aligned with Article 1 and 2 of Amended Convention and coverage as defined by the ICZM protocol.*
- *The definition of the landward side is explicitly defined in Article 2 (b) of the Convention-*
- *New para 2 was added to align with the geographical scope of the ICZM)*

### **PART II: PROTECTION, CONSERVATION AND SUSTAINABLE USE OF MARINE AND COASTAL BIODIVERSITY**

*[Note from Secretariat]: There is need to embrace the ecosystem approach throughout the Protocol as opposed to a species approach. Thus, it is proposed to introduce a new article on conservation of biological diversity, ecosystems, habitats, species of both flora and fauna, and genetic resources instead of species alone. The ecosystem approach also requires for connectivity of protected areas as appropriate. This language aligns with CBD and modern conservation practices. The specific articles on species follows after this new article with possibility of annexes.*

### Article 4

#### **Measures for Conservation and Sustainable Use of Marine and Coastal Biological Diversity**

1. The Contracting Parties shall take all appropriate measures to ensure the protection and sustainable use of marine and coastal biodiversity, enhance the habitats, species, genetic resources to strengthen ecosystem resilience and provision of ecosystem goods and services from stressors, including those related to climate change, ocean acidification and marine pollution.
2. The Contracting Parties shall take the necessary measures to conserve ecosystems and habitats which are critical for the reproduction, survival and recovery of endangered, threatened or endemic species of flora and fauna.

**OR**

**[Alternative suggestion from Secretariat]:**

The Contracting Parties shall take necessary measures to conserve ecosystems and habitats which are in danger of disappearing in their natural area of distribution in the Western Indian Ocean region.

3. The Contracting Parties shall take measures to conserve and sustainably use areas requiring protection, with ecologically representative and well-connected networks of marine protected areas and other effective area-based conservation measures.

### Article 5

#### [National] Measures for the Conservation of Species

**[General Suggestion from Secretariat]:**

*For the protection and conservation of all flora and fauna species, the suggestion is to remove annexes as they are limited to a few endangered species and therefore will always be incomplete. Listing them would require regular scientific assessments. Therefore, for each section below, options are provided for retaining annexes or removing them.*

1. The Contracting Parties shall take all appropriate measures to conserve -species of wild flora specified in Annex 1\_

**[Suggestions from Secretariat]:**

The Contracting Parties shall take all appropriate measures to conserve species of wild flora specified in Annex 1 and shall develop and update on a regular basis, criteria for listing such species as established under relevant international agreements on the conservation and sustainable use of marine and coastal biodiversity.

or

The Contracting Parties shall take all appropriate measures to conserve all endangered species of wild flora.

**Explanation:** *This would mean no Annex I and would cover all endangered species of wild flora as per the ecosystem approach. The formulated text provides for all the requirements needed for protection of wild flora (Annex I).*

2. Each Contracting Party shall regulate, and where required, prohibit activities having adverse effects on the habitats of species of endangered wild flora, including uncontrolled picking, collecting, cutting or uprooting and shall, as appropriate, prohibit the possession, destruction or sale thereof.

3. The Contracting Parties shall take appropriate measures to ensure strict protection, regulation, and, where required, prohibit activities having adverse effects on the habitats of such species of the endangered wild fauna listed in Annex II.

**[Suggestions from Secretariat]:**

The Contracting Parties shall take appropriate measures to ensure strict protection, regulation, and, where required, prohibit activities having adverse effects on the habitats of such species of the endangered wild fauna listed in Annex II and shall develop and update on a regular basis, criteria for listing such species as established under relevant international agreements on the conservation and sustainable use of marine and coastal biodiversity.

or

The Contracting Parties shall take all appropriate measures to protect all endangered species of wild fauna.

**Explanation:** This would mean no Annex II and would cover all endangered species of wild fauna as per the ecosystem approach. The formulated text provides for all the requirements needed for protection of wild fauna (Annex II)

~~1.4.~~ Each Contracting Party ~~the following activities~~ shall, where required, ~~be~~ prohibit the following activities ~~ed~~ with regard to endangered species of flora and faunasuch species;

- (a) ~~All forms of~~ Capture, keeping or killing;
- (b) Damage to, or destruction of, ~~critical~~ habitats related to such species ;
- (c) Disturbance of wild fauna animal ~~species~~, particularly during the period of breeding, incubation, rearing and hibernation or migration, or other periods of ecological ~~biological~~ stress;
- (d) Destruction or taking of eggs from the wild or keeping these eggs even if empty;
- (e) Possession of and ~~internal~~-trade in these animals, alive or dead, including stuffed animals and any readily recognizable part or derivative thereof.

**[Note from Secretariat]:**

- In sub-para (a) consider deleting the clause at the regional level and let it apply at national level to allow flexibility at national level.
- The word 'critical' in sub-para (b) has been deleted until legal definition and criteria are considered and provided.
- In sub-para (c) consider using 'ecological' instead of 'biological' stress
- Consider deleting sub-para (d) from the regional protocol and to have the activities defined in national laws.
- In sub-para (e) consider deleting at the regional level and let it be applied in the national laws. Harmonization of national laws would be necessary and possible transfer the responsibility to CITES.

or

- Alternative suggestion: consider deleting the entire paragraph as some Contracting Parties allow some of the listed practices in a, b, c, d, and e.

~~2.5.~~ Each Contracting Party shall formulate and adopt measures and plans ~~on with regard to~~ ex-situ conservation including and in particular captive breeding, of ~~protected~~ fauna species and propagation of ~~protected~~ flora species.

## Article 6

### Introduction of Alien, Invasive Species and Genetically Modified Organisms

~~1.~~ The Contracting Parties shall take all appropriate measures to prohibit the introduction of alien invasive species.

~~1.2.~~ Each Contracting Party shall take measures to prevent, control or minimize the introduction and spread of invasive species from biofouling, ballast water and other means by which marine or coastal invasive species are introduced or spread and -shall:

- (a) Prevent or minimize introduction of marine or coastal invasive species through mariculture activities, shipping, oil and gas explorations, tourism and aquarium trade;
- (b) Prevent the establishment and spread of marine and coastal invasive species through early detection and rapid response;
- (c) Eradicate, where possible, all marine and coastal invasive species;
- (d) Contain or control, where possible, all marine and coastal invasive species, including those already established.

~~2.3.~~ Each Contracting Party shall regulate, manage, or control the risks associated with the use and release of genetically/ living modified organisms, which are likely to have adverse environmental impacts on the conservation and sustainable use of marine and coastal biodiversity or public health.

*Note from Secretariat:*

*Cartagena Protocol uses 'living modified organisms' which means "any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology." Living organisms means "any biological entity capable of transferring or replicating genetic material including sterile organisms, viruses and viroids."*

## Article 7

### Use, Harvesting and Trade in Wild Species

*[Suggestion from Secretariat of the new paragraph to align with GBF]*

1. The Contracting Parties shall take measures to ensure the use, harvest and trade of wild species is sustainable, safe and legal, prevents over-exploitation, minimizes impacts on non-target species and ecosystems, reduces risks of pathogen spill-overs, and protects customary sustainable use by local communities.



2. The Contracting Parties shall take all appropriate measures to ensure the protection, **restoration and regeneration** of populations or stocks of ~~all harvestable and tradeable wild~~ -species- listed in **Annex III**.

**[Suggestions from Secretariat]:**

The Contracting Parties shall take all appropriate measures to ensure the protection, **restoration and regeneration** of populations or stocks of all harvestable and tradeable wild species listed in Annex III and shall develop and update on a regular basis, criteria for listing such species as established under relevant international agreements on the conservation and sustainable use of marine and coastal biodiversity.

or

The Contracting Parties shall take all appropriate measures to ensure the protection, restoration and regeneration of populations or stocks of all harvestable and tradeable species.

**Explanation:** This would mean no Annex III and would cover all harvestable and tradeable species. The formulated text provides for all the requirements needed for use, harvesting and trade in wild species (Annex III).

3. Each Contracting Party shall develop, adopt and implement management plans and measures for the use, harvesting and trade of wild species.

**Note from Secretariat:**

4. Existing Protocol had listed activities(a-f) which would best fit under management plans. It is suggested that these details be deleted to allow flexibility to each country to develop management plans for use, harvesting and trade in wild species.

5. Each Contracting Party shall make provision for return of protected species imported or held illegally by any persons to their country of origin in compliance with guidelines provided for in relevant regional and international agreements and in the case of live wild flora and fauna species, efforts shall be made to re- introduce such species to their natural habitats.

**Article 8**

**Migratory Species**

1. The Contracting Parties shall co-ordinate their efforts for the protection of migratory species listed in **Annex IV** whose range extends into their territories and shall develop and update on a regular basis, criteria for listing such species as established under relevant international agreements on the conservation and sustainable use of marine and coastal biodiversity.

**Suggestion from Secretariat]:**

The Contracting Parties shall co-ordinate their efforts for the protection of all migratory species whose range extends into their territories.

**Explanation:** *This would mean no Annex IV and would cover all migratory species. The formulated text provides for all the requirements needed for conservation of migratory species (Annex IV).*

2. Each Contracting Party shall where appropriate, take measures to conserve the habitats that migratory species depend on, prevent or minimize activities with adverse effects, impede or endanger the migration of species and designate protected areas or corridors for migration.

~~4.3.~~ The Contracting Parties shall cooperate to conserve the habitats of migratory species, identify threats, and research and monitor the behavior and ecology of migratory species.

### **PART III: -AREA-BASED MANAGEMENT MEASURES AND TOOLS FOR THE CONSERVATION AND SUSTAINABLE USE OF MARINE AND COASTAL BIODIVERSITY**

*[General suggestion from Secretariat]:*

*It is proposed to rename the title of this part to align with Global Biodiversity Framework and incorporation of other modern management tools. New articles on XXX are suggested for addition.*

#### **Article 9**

##### **Area-based Management Measures and Tools**

1. The Contracting Parties shall take measures to conserve and sustainably use areas requiring protection through the development of a comprehensive system and use of area-based management tools for ecologically representative and well-connected networks of marine protected areas.

2. Each Contracting Party shall develop and apply singularly or in collaboration with other Contracting Parties, area-based management tools including marine protected areas, ecosystem-based management approaches, marine spatial planning, integrated coastal zone management, locally managed marine areas, fisheries closure areas, pollution management zones, seabed mining exclusion areas and other effective area-based conservation measures.-

#### **Article 10**

##### **Establishment and Expansion of Protected Areas**

1. The Contracting Parties shall, establish or expand protected areas in areas under their jurisdiction to protect, restore and maintain marine and coastal biodiversity and ecosystems with a view to enhance their productivity and health and safeguard:

(a) the ecological processes and geomorphological formations for promoting ecosystem resilience from stressors including those related to climate change, ocean

acidification and pollution;  
~~(a)~~(b) ecological connectivity and representativeness of biodiversity;

(c) Populations of the greatest possible diversity of endemic or threatened species ~~(of fauna and flora)~~ depending on these ecosystems;

~~(b)~~(d) Sustainable resource use, traditional subsistence, livelihoods and cultural objectives and activities of local coastal communities;

(e) Areas having particular importance by reason of their scientific, educational, aesthetic, archaeological and cultural purposes.

1.2. The Contracting Parties shall, in establishing or expanding protected areas, take into account, inter alia, their importance as:

- (a) Natural habitats, ~~for~~ species of fauna and flora, especially those which are rare, threatened or endemic;
- (b) Migration routes including ~~or as~~ wintering, staging, feeding or moulting sites for migratory species;
- (c) Areas necessary for the maintenance of stocks of economically important marine species;
- (d) Reserves of genetic resources;
- (e) Rare or fragile ecosystems;
- (f) Areas of interest for scientific research and monitoring.

## **Article 11** **Conservation Measures for Protected Areas**

The Contracting Parties, taking into account the characteristics of each protected area, shall take, ~~in conformity with international law, the~~ measures required to achieve the objectives of protecting the area, which may include:

- (a) ~~The development~~ of a planning, ~~and~~ management and zonation system;
- (b) ~~The~~ prohibition of the dumping or discharge of wastes or other matter which may impair the protected areas directly or indirectly;
- (c) ~~The~~ regulation of recreational craft activities;
- (d) ~~The~~ regulation of fishing and hunting and of the capture of animals and harvesting of plants;
- (e) ~~The~~ regulation of any activity likely to harm the marine and coastal biodiversity including the introduction of alien and invasive species;

- (f) ~~The~~ regulation of any activity involving the exploration or exploitation of the seabed or its subsoil or a modification of the seabed profile;
- (g) ~~The~~ regulation of any activity involving a modification of the profile of the soil or the exploitation of the subsoil of the coastal area;
- (h) ~~The~~ regulation of any archaeological ~~object~~ activity ~~or and of the~~ removal of any object which may be considered as an archaeological object;
- (i) ~~The~~ regulation of trade in and import and export of animals, parts of animals, plants, parts of plants and archaeological objects which originate in protected areas ;
- (j) ~~a~~Any other measure aimed at safeguarding marine and coastal biodiversity in protected areas.

### **Article 12:** Management of Protected Areas

Each Contracting Parties shall adopt planning, management, monitoring, control and compliance measures for- protected areas including:

(a) development and implementation of management and zonation plans, land use planning, marine spatial planning and integrated coastal zone management plans;

~~(a)~~(b) continuous monitoring of ecological processes, habitats, populations, landscapes, seascapes and the impacts of human activities, climate change, pollution -and ocean acidification;

~~(b)~~(c) creating awareness and involvement of local communities;

~~(c)~~(d) adoption of mechanisms for financing protected areas;

2. The Contracting Parties shall give appropriate publicity on protected areas including their boundaries.

2.3. The Contracting Parties shall incorporate measures for responding to incidents that may cause damage or constitute -threats to protected areas in national disaster management plans.

### **Article 13** Transboundary Protected Areas

**[Suggestion from Secretariat]:**

It is suggested to *change the title to Transboundary Protected Areas to replace frontier protected areas, as Buffer areas are zones in MPAs and would be part of zonation plans.*

1. The Contracting Parties may establish coastal and marine transboundary protected areas to ensure the integrity of shared ecosystems, ecological connectivity and representativeness.

~~1.2.~~ The Contracting Parties that intend to establish a coastal and marine transboundary protected areas- shall agree on the cooperative measures to be taken to protect and manage such areas.

~~2.3.~~ A Contracting -Party or Parties that intends to establish a coastal and marine transboundary protected area with a non-Contracting Party to this Protocol, shall endeavour to work together with the competent authorities of that non-Contracting Party State to agree on the cooperative measures to protect and manage such area.

#### **Article 14:**

##### **Establishment of a Network of Ecologically Connected Protected Areas**

1. The Contracting Parties shall, in order to promote cooperation in the management and conservation of protected areas as well as in the protection of threatened species and their habitats, cooperate in the establishment of a network or networks of marine protected areas to ensure the integrity of ecosystems, ecological connectivity and representativity including areas under co-management with local communities.

2. The Contracting Parties in establishing a network or networks of marine protected areas shall be guided by scientific assessments, research and local knowledge.

3. The Contracting Parties shall develop guidelines for the identification, selection, development and management of the networks of marine protected areas.

~~1.4.~~ The Contracting Parties shall carry out assessments on a regular basis on ecological coherence and management effectiveness of the networks of protected areas.

#### **PART IV.**

### **PROVISIONS COMMON TO THE CONSERVATION AND SUSTAINABLE USE OF MARINE AND COASTAL BIODIVERSITY**

#### **Article 15**

##### **Guidelines, Standards or Criteria for Protected Areas and Species**

1. The Contracting Parties shall, in co-operation with the relevant regional and international organizations, formulate and adopt guidelines, standards or criteria on the identification, selection, establishment and management of protected areas, species and transboundary protected areas-.

**Article 16**  
**Integrated Environmental Assessments**

**[Note from Secretariat]:**

A new article created to bring the Protocol in line with the spirit of BBNJ treaty.

1. The Contracting Parties shall, where appropriate, undertake integrated environmental assessments that take into consideration the possible direct or indirect, immediate or long-term environmental, economic, social, cultural and health impacts of policies, programmes, projects and activities that may significantly affect marine and coastal biological diversity.
2. The Contracting Parties shall ensure that such integrated environmental assessments are incorporated in the planning processes on policies, programmes, projects and activities including cumulative impacts, mitigation measures, effects post-monitoring and compensation measures, as appropriate.

**Article 17**  
**Public Information and Education**

1. The Contracting Parties shall, as appropriate, carry out educational and awareness programmes on marine and coastal biodiversity including on unique or threatened biological diversity and the scientific knowledge.
2. The Contracting Parties shall, in creating awareness on the conservation and sustainable use of marine and coastal biodiversity, endeavour to promote the participation of the public, local communities, private sector and civil society.

**Article 18**  
**Scientific, Technical and Management Research**

1. The Contracting Parties shall, as appropriate, encourage, support or develop scientific and technical research on marine and coastal biodiversity including archaeological and anthropological heritage.
2. The Contracting Parties shall, as appropriate, exchange, directly or through the Organization, scientific and technical information concerning current or planned research and their outcomes.
- 2.3. The Contracting Parties shall, to the fullest extent possible, co-ordinate their research, and define jointly or standardize the scientific methods to be applied in the conservation and sustainable use of marine and coastal biodiversity and develop mechanisms for monitoring and assessment of the effectiveness of measures taken .

## **Article 19**

### **Exchange of Information**

1. The Contracting Parties shall, apply the principles of co-operation set forth in articles 17 of the Convention, by transmitting, on a periodic basis to the Organization, information on the status of protected areas including:

- (a) Comparable datasets and information for monitoring and evaluation of marine and coastal biological diversity ;
- (b) Baseline studies, inventories, publications and information of a scientific, administrative, policy and legal nature, in particular;
- (c) ~~On the~~ measures taken ~~in pursuance of this Protocol~~ for the protection and management of marine and coastal biodiversity;
- (d) threats to marine and coastal biodiversity especially those from outside their control including climate change and natural disasters
- (e) any changes in the delimitation or legal status of a protected area or the suppression of all or part of such an area.

2. Each Contracting shall make available to the Organization information under paragraph 1 of this article through the Clearing House Mechanism established by the Conference of Parties.

3. The Contracting Parties shall, as appropriate, have regular exchanges of information and knowledge on marine and coastal biological diversity.

***[Suggestion from Secretariat]:***

*It is suggested that the above two paragraphs (2 and 3) be added to bring this Protocol in conformity with LBSA and ICZM Protocols*

## **PART V: REGIONAL CO-OPERATION**

### **Article 20**

#### **Cooperation Measures**

1. The Contracting Parties shall adopt cooperative measures to ensure the protection and sustainable use of marine and coastal biodiversity including diversity within species and ecosystems and marine genetic resources.

2. The Contracting Parties shall cooperate and where relevant with regional and international organizations to ensure the protection, conservation, recovery and sustainable use of species so as to ensure and maintain their favourable state of conservation.

3. The Contracting Parties shall cooperate with relevant regional and international organizations in the use of area-based management tools in context of connectivity to adjacent areas.

4. Each Contracting Party shall communicate any threats or danger to coastal and marine biodiversity to the Contracting Parties and the Organization.

5. The Contracting Parties shall endeavour directly or through the organization or with the assistance of relevant regional and international organizations to engage in programmes of mutual assistance, including public awareness and education, training of scientific, technical and management personnel, monitoring, control and surveillance, scientific research, development and use of appropriate technology.

## **PART VI: INSTITUTIONAL ARRANGEMENTS AND FINAL PROVISIONS**

### **Article 21**

#### **Meetings of the Contracting Parties**

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 18 of the Convention.

2. The Contracting Parties to this Protocol may also hold extraordinary meetings provided for in article 18 of the Convention.

3. It shall be the function of the meetings of the Contracting Parties to this Protocol to:

(a) keep under review, the implementation of this Protocol and consider the efficacy of the measures adopted and examine the need for other measures in conformity with the provisions of this Protocol; adopt, review and amend as required any annex to this Protocol;

(b) adopt guidelines and other measures to facilitate the implementation of this Protocol;

(c) consider the recommendations made by the meetings of national focal points

(d) consider, as appropriate, information transmitted and its frequency of transmission by the Contracting Parties to this Protocol to the Organization under Article 23 of the Convention.

(e) perform all other functions or exercise such powers as specified under Article 17 of the Convention.

### **Article 22**

#### **National Focal Points**

1. Each Contracting Party shall designate a national focal point or points consistent with those appointed under the Convention, to liaise with the Organization on technical, scientific and legal aspects under this Protocol.



2. The national focal points shall meet as appropriate to carry out the functions derived from the Protocol as provided for in the Terms of Reference for the focal points of the Convention.

### **Article 23**

#### **Secretariat and Coordination Mechanisms**

1. The Contracting Parties designate the Organization as the secretariat for purposes of this Protocol.
2. The Organization shall be responsible for coordinating the implementation of this Protocol as provided for in Article 17 of the Convention.
3. In addition to carrying out the functions as provided for in Article 17 of the Convention, the Organization shall perform the following secretariat functions:
  - a) assist in raising funds for the implementation of this Protocol;
  - b) prepare common formats as directed by the Contracting Parties to be used as a basis for reports and other communication to the Organization;
  - c) compile and make available to the Contracting Parties and other relevant parties reports and studies which may be required for the implementation of this Protocol or upon request by the Contracting Parties;
  - d) prepare regular reports which shall include a draft budget for the forthcoming annual, bi-annual or other period as well as an audited revenue and expenditure statement for the preceding annual, bi-annual or other period as may be agreed by the meetings of the Contracting Parties;
  - e) assist Contracting Parties, in co-operation with competent regional and international, inter-governmental and non-governmental organizations, to establish and manage programmes and activities;  
Assist Contracting Parties, upon request, to facilitate/coordinate in capacity-building needs of contracting parties; and,
  - a)f) carry out any other functions that may be assigned to it by the Contracting Parties.

## **PART V: FINAL PROVISIONS**

### **Article 24**

#### **Relationship Between the Protocol and the Convention**

1. The provisions of the Convention relating to its Protocols shall apply with respect to this Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 22~~4~~ of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

## Article 25

### Signature, Ratification, Accession, Amendment, Depository and Entry into Force

1. This Protocol shall be open for signature from the XXXXXX day of xxxxxxxxx to xxxxxxxxx day of xxxxxxxxxxxxxx by any Contracting Party to the Convention.
2. This Protocol shall be open for accession by any non-Contracting Party to the Convention or organizations contemplated by Article 26 of the Convention, and in accordance with the provisions of Article 28 of the Convention, provided that such acceding State or organization has been duly invited by the Organization upon prior approval by the Contracting Parties.
3. The provisions of the Convention as to ratification, acceptance, approval, amendments including Annexes, review, depository, withdrawal and entry into force shall apply mutatis mutandis to this Protocol.
4. This Protocol shall, from the date of its entry into force, replace the Protocol Concerning Protected Areas and Wild Flora and Fauna in the Eastern Africa Region of 21st June 1985.

**IN WITNESS WHEREOF** the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

**DONE** at **Nairobi** this **twenty-first** day of **June one thousand nine hundred and eighty-five** in a single copy in the English and French languages, the two texts being equally authentic.  
AS AMENDED at this \_\_\_\_\_ day of \_\_\_\_\_  
in a single copy in the English and French languages, the two texts being equally authentic.

## **ANNEX 1**

### **PROTECTED SPECIES OF WILD FLORA**

*Uvariodendron gorgonis* Verdc. (Kenya)  
*Grevia madagascariensis* Baill. subsp. *Keniensis* Verdc (Kenya)  
*Saintpaulia rupicola* B.L Burt (Kenya)  
*Beccariophoenix madagascariensis* Jumelle & Perr. (*Madagascar*)  
*Crinum mauritianum* Lodd. (*Mauritius*)  
*Tetrataxis salicifolia* (Thouars ex Tul.) Baker (*Mauritius* )  
*Zanthoxylum paniculatum* Balf. f. (*Mauritius* , *Rodrigues*)  
*Hibiscus liliiflorus* Cav. (*Mauritius* , *Rodrigues*)  
*Lodoicea maldivica* (J.F. Gmelin) Pers. (*Saychelles*)  
*Toxocarpus schimperianus* Hemsly (*Seychelles*)  
*Peponium sublitorale* C. Jeffery & J.S Page ( *Saychelles*, *Aldabra*)

**[Suggestion from the Secretariat]:**

If Annex is retained:

- Add under Annex I,A- Criteria used to list all species of Protected Wild Flora
- Consider using All Criteria used to list all species of Wild Flora in IUCN Red List

**ANNEX 11**

**SPECIES OF WILD FAUNA REQUIRING SPECIAL PROTECTION.**

**MAMMALS**

Zanzibar red colobus (*Colobus badius kirkii*)  
Zanzibar suni (*Neotragus mochatatus moschatus*)  
Mauritius fruit bat (*Pteropus niger*)  
Rodrigues fruit bat (*Pteropus rodricensis*)  
Dugong (*Dugong dugon*)  
Humpback whale (*Megaptera novaengelicae*)  
Blue whale (*Balaenoptera musculus*).  
Lemurs (Lemur spp)  
Nosy Be sportive lemur (*Lepilemur dorsalis*)  
Cosquerel's mouse lemur (*Microcebus coquereli*)  
Aye aye (*Daubentonia Madagascariensis*)

**BIRDS**

Sokoke pipit (*Anthus sokokensis*)  
Sokoke scops owl (*Otus ireneae*)  
Amani sunbird (*Anthreptes pallidigaster*)  
East Coast akalat (*Sheppardia gunningi gunningi*)  
Pemba scops owl (*Otus rutilus pembaensis*)  
Wattled crane (*Bugeranus carunculatus*)  
Clarke's weaver (*Plocaeus golandi*)  
Spotted ground thrush (*Turdus fisheri fisheri*)  
Aldabra white-throated rail (*Dryolimnas cuvieri aldabranus*)  
Aldabra brush warbler (*Nesillas aladabranus*)  
Aldabra sacred ibis (*Threskiornis aeethiopica*)  
Aldabra kestrel (*Falco newtoni aladbranus*)  
Mauritius kestrel (*Falco punctatus*)  
Seychelles magpe robin (*Copsychus sechellarum*)  
Seychelles fody (*Foudia flavicans*)  
Rodriquez fody (*Foudia flavicans*)  
Seychelles brush warbler (*Acrocephalus sechellensis*)  
Seychelles turtle dove (*Streptopelis picturata rostrata*)  
Madagascar fish eagle (*Haliaeetus vociferoides*)  
Reunion cuckoo-shrike (*Coracina newtoni*)  
Madagascar heron (*Ardea humbloti*)  
Grand Comoro scops owl (*Otus pauliani*)

Grand Comoro flycatcher (*Humblotia flabirostris*)  
 Mount Karthala white-eye (*Zosterops mouroiensis*)  
 Grand Comoro drongo (*Discrusis fuscipennis*)  
 Mayotte drongo (*Discrurus waldeni*)  
 Mascarene black petrel (*Pterodroma aterrima*)  
 Taita thrush (*Turdus helleri*)  
 Hinde's pied babbler (*Trudoides hindei*)  
 Papyrus yellow warbler (*Chloropeta gracilirostris*)  
 Tana river cisticola (*Cisocola restricta*)  
 Turner's eremomela (*Eremomela turneri*)  
 Chapin's flycatcher (*Muscicapa lendu*)  
 Madagascar little grebe (*Tachybaptus pelzelni*)  
 Alaotra grebe (*Tachybaptus rufolavatus*)  
 Madagascar teal (*Anas bernierri*)  
 Madagascar pochard (*Aythya innotata*)  
 Madagascar serpent eagle (*Euriorchis astur*)  
 White-breasted mesite (*Mesoenas variegata*)  
 Brown mesite (*Mesoenas unicolor*)  
 Subdesert mesite (*Monia benschi*)  
 Slender-billed flufftail (*Sarothrura watersi*)  
 Sakala varail (*Amaurornis olivieri*)  
 Madagascar plover (*Charadrius thoracicus*)  
 Snail-eating coua (*Coua delalandei*)  
 Madagascar red owl (*Tryto soumagnei*)  
 Short-legged ground-roller (*Brachypteracias leptosomus*)  
 Scaly ground-roller (*Brachypteracias-squamiger*)  
 Roufous-headed ground-roller (*Atelornis crossleyi*)  
 Long-tailed ground-roller (*Uratelornis chimaera*)  
 Yellow-bellied sunbird-asisity (*Neodrepani hypoxantha*)  
 Appert's greenbul (*Phyllastrephus apperti*)  
 Dusky greenbul (*Phyllastrephus tenebrosus*)  
 Grey-crowned greenbul (*Phyllastrephus cinereiceps*)  
 Van Dam's vanga (*Xenopirostris damii*)  
 Pollen's vanga (*Xenopirostris poleni*)  
 Benson's rockthrush (*Monticola bensoi*)  
 Madagascar yellow brow (*Crossleyia xanthophrys*)  
 Red-tailed newtonia (*Newtonia fanovanae*)  
 Pink pigeon (*Nesoenas mayeri*)  
 Mauritius parakeet (*Psittacula eques*)  
 Mauritius cuckoo-shrike (*Coracina typica*)  
 Mauritius black bulbu (*Hypsipetes bulbul olivaceus*)  
 Rodrigues warbler (*Arcrocephalus rodericanus*)  
 Mauritius olive-white-eye (*Zosterops chlororonothus*)  
 Mauritius fody (*Foudia rubra*)  
 Cape vulture (*Gyps coprotheres*)  
 Swynnerton's forest robin (*Swynnertonia swynnertoni*)  
 Dappled mountain robin (*Modulatrix orostruthsus*)  
 Thyolo elethe (*Alethe choloensis*)  
 Long-billed appalis (*Apalis moreaui*)  
 Seychelles kestrel (*Falco araea*)

Seychelles scops owl (*Otus insularis*)  
 Seychelles swiftlet (*Collocalia elaphra*)  
 Seychelles black paradise fly catcher (*Terpsiphone corvina*)  
 Seychelles white-eye (*Zosterops modestus*)  
 Somalia pigeon (*Columba oliviae*)  
 Ash's lark (*Mirafra ashi*)  
 Somali long- clawed lark (*Hateromirafra archeri*)  
 Warsangali linnet (*Acanthis johannis* )  
 Shoebill (*Blaeniceps rex*)  
 Nduk eagle owl (*Bubo vosseleri*)  
 Uluguru bush-shrike (*Malaconotus alius*)  
 Usambara ground robin (*Dryocichloides montanus*)  
 Karamoja apalis (*Alalis Karamojae*)  
 Iringa ground robin (*Drycichloides lowei*)  
 Karamoja apalis (*Apalis Karamojae*)  
 Kungwe apalis (*Alalis argentea*)  
 Mrs. Moreau's Warbler (*Bathmocercus winifredae*)  
 Banded green sunbird (*Anthreptes rubritorques*)  
 Rufous- winged sunbird (*Nectarinia rufipennis*)  
 Tanzanian mountain weaver (*Ploceus nicolli*)

## **REPTILES**

Olive redley turtle (*Lepidochelys olivacea*)  
 Logger head turtle (*Caretta caretta*)  
 Leatherback turtle (*Dermochelys coriacea*)  
 Serpent island gecko (*Cyrtodactylus serpensin sula*)  
 Round island day gecko (*Phelsuma guentheri*)  
 Round island skink (*Leiopisma telfairii*)  
 Skink (*Gongylomorphus bojerii*)  
 Round island boa (*Bolyeria multocarinata*)  
 Round island keel-scaled boa (*Casarea dussumieri*)  
 Aldabra giant tortoise (*Dipsochelys elephantina*)  
 Madagascar tortoise (*Geochelone yniphora*)

## **MOLLUSCS**

Triton's trumpet (*Charonia tritonia*) Commercial trochus (*Trochus niloticus*) Fluted giant clam (*Tridacna squamosa*) Small giant clam (*Tridacna maxima*) Horse's hoof clam (*Hippopus hippopus*) Pearl oyster (*Pinctada spp.*).

## **CRUSTACEANS**

Coconut crab (*Birgus latro*)

## **CNIDARIANS**

Black coral (*Antipathes dichotoma*)

Whip Coral (*Cirrhopathes spp.*)

## **INSECTS**

Tenebrionid beetle (*Pulposipus herculeanus*)

Comoro graphium butterfly (*Graphium levassari*)

### ***[Suggestion from the Secretariat]:***

*If Annex is retained:*

- *Add to Annex II, A Criteria used to list all species of Protected Wild Fauna*
- *Consider using All Criteria used to list all species of Wild Fauna in IUCN Red List*

## **ANNEX III**

### **Harvestable species of wild fauna requiring protection**

Cane rates (*Thryonomys spp*)

African Elephant (*Loxodonta Africana*)

Rock hyrax (*Procavia capensis*)

Yellow –spotted hyrax (*Heterophyrax brucei*)

Tree hyrax (*Dendrohyrax arboreus*)

Burchell’s zebra (*Equus burchelli*)

Hippopotamus (*Hippopotamus amphibious*)

Warthog (*Phacochoerus aethiopicus*)

Bush pig (*Potamochoerus porcus*)

Lesser kudu (*Tragelaphus imberbis*)

Common waterbuck (*Kobus ellipsiprymmus*)

Topi (*Damaliscus korrigum*)

Lichtenstein’s hartebeest (*Alcepaphus lichtensterni*)

Wildebeest (*Connonchaetes taurinus*)

Impala (*Aepyceros melampus*)

Grimm’s duiker (*Sylvicapra grimmia*)

Buffalo (*Syncerus caffer*)

Spiny lobsters (*Pamulirus spp.*)

Green turtles (*Chelonia mydas*)

Hawks bill turtle (*Eretmochelys imbrocata*)

### ***[Suggestion from the Secretariat]:***

*If Annex is retained:*

- *Add to Annex III, A: Criteria used to list all harvestable species of Wild Fauna requiring protection*
- *Consider using All Criteria used to list species under Convention on International Trade of Endangered Species*

## **ANNEX IV**

### **Protected migratory species**

#### **MARINE MAMMALS**

Dugong (*Dugong dugon*)

Humpback whale (*Megaptera novaengeliae*)

Blue whale (*Balaenoptera musculus*)

#### **REPTILES**

Green turtle (*Chelonia mydas*)

Hawksbill turtle (*Eretmochelys imbricata*)

Olive ridley turtle (*Lepidochelys olivacea*)

Loggerhead turtle (*Caretta caretta*)

Leatherback turtle (*Dermochelys coriacea*)

#### **MIGRATORY BIRDS**

##### ***[Suggestion from the Secretariat]:***

- *If Annex is retained, Add list of Migratory Birds*
- *Add Annex IV, A Criteria used to list all Migratory Species*
- *Consider using All Criteria used to list Migratory Species listed under Convention on Migratory Species*