

UNITED REPUBLIC OF TANZANIA

**POLICY AND GOVERNANCE ASSESSMENT OF COASTAL AND MARINE
RESOURCES SECTORS WITHIN THE FRAMEWORK OF LARGE MARINE
ECOSYSTEMS FOR ASCLME**

IN TANZANIA

BY

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ACRONYMS

CBD	Convention on Biological Diversity
CBO	Community Based Organization
COPs	Conference of the Parties
CITES	Convention on International on Endangered Species
DG	Director General
DoE	Director of Environment
NEAP	National Environmental Action Plan
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EAT	Environmental Appeals Tribunal
EEZ	Exclusive Economic Zone
EMA	Environmental Management Act Cap 191
GMP	General Management Plan
ICM	Intergraded Coastal Management
LGAs	Local Government Authorities
MCS	Monitoring Control and Surveillance
MCU	Marine Conservation Unit
MP	Marine Park
MPA	Marine Protected Area (established at national level)
MPA	Marine Protected Area (established at community level)
MPRA	Marine Parks and Reserves Act
MPRU	Marine Parks and Reserves Unit
MR	Marine Reserve
NEMC	National Environment Management Council
NGOs	Non Governmental organizations
NICEMS	National Integrated Costal Environmental Management Strategy
NLUPC	National Land Use Planning Commission
NPAB	National Protected Areas Board
NPRS	National Poverty Reduction Strategy
PIC	Prior Informed Consent
POPs	Persistent Organic Pollutants
TS	Territorial Sea
SEA	Strategic Environmental Assessment
UNCLOS	United Nations Convention on the Law of the Sea
UNEP	United Nations Environmental Program
URT	United Republic of Tanzania
WWF	World Wide Fund for Nature

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EXECUTIVE SUMMARY

This report describes the Policy and Governance Assessment done for the Coastal and Marine Resources sectors within the framework of Large Marine Ecosystems for the Agulhas and Somali Current in Tanzania. This report is organized into seven chapters. The first chapter introduces Tanzania with its geographical settings, administrative set up and the existing governance system for managing the coastal and marine resources and environment. It also present the methodology used for this assessment. The second Chapter is on the socio economic activities carried out in the coastal and marine areas of Tanzania while the third Chapter concentrates on the policies, legal and institutional frameworks existing in Tanzania. It describes more than 17 pieces of policies and 22 Legislations and more than 30 institutions structures relevant to coastal and marine resources in the country. Chapter four analyses the gaps of the policies, legislations and the described institutional structures. It also gives the future perspective trends. Chapter five analyses the process for ratification and implementation of the International Conventions in Tanzania while Chapter Six deals with the conclusions and Chapter seven recommends on the way forward. The last sections give references used for this assessment and the appendices attached to this report.

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CHAPTER 1: INTRODUCTION

1.1 The country and Geographical settings:

Tanzania is located in Eastern Africa, between 1°S to 12°S and 30°E to 40°E. It is constituted by Mainland Tanzania and Zanzibar with a total area of 945,087 km² of which 886,037 km² is surface land. It shares borders with Kenya and Uganda in the North; Rwanda, Burundi and Democratic Republic of Congo in the West; Zambia and Malawi in the South-West and Mozambique in the South; and Indian Ocean in the East. Some 40 km offshore are the islands of Zanzibar (Unguja and Pemba) and Mafia (to the South), plus numerous smaller islands. Its EEZ area shares the borders with Kenya, Mozambique, Comoros and Seychelles.

Tanzania is the only African country that contributes to all three major oceanic systems that surround African continent: India Ocean, Atlantic Ocean through Lake Tanganyika and Lukuga river system, Mediterranean/Red Sea through Lake Victoria and Nile river system.

The total population of Tanzania in 2002 was 37.8 million. Growing at the rate of 2.9 per cent per annum in 1988-2002, Tanzania's population is projected to be 40 million in 2010.

1.2 Administrative Set up

Tanzania is one State and is a sovereign United Republic. The territory of the United Republic consists of the whole of the area of Mainland Tanzania and the whole of the area of Tanzania Zanzibar, and includes the territorial waters. It is administered by a two Government system: Government of the United Republic of Tanzania (union Government) and the Revolutionary Government of Zanzibar. The country got its independence in 9th December 1961 (Tanganyika) and the Zanzibar in 12th January 1964 while the Union was formed in 26th April 1964. The Country is headed by the United Republic President while the President of Zanzibar is the head of the Revolutionary Government of Zanzibar. The Government of the United Republic of Tanzania is operating through three arms of the government system: the Executive (the President, Vice President, Prime Minister and the Cabinet), Parliament and the Judiciary. While for Zanzibar, there is a President and Head of the Revolutionary Government of Zanzibar, The Zanzibar Revolutionary Council, The House of Representatives and the Judiciary.

The Country is divided into Regions, Districts, Cities, Municipals, Towns Divisions, Wards, Mitaas/Villages/Shehia (for Zanzibar) and sub villages/Vitongoji. The political Leaders of these country divisions are Presidential appointed Commissioners (for Regions and Districts), District employed Secretaries (Divisions), Executive Officers (Wards) and elected Chairpersons for Mitaas/ Villages/Shehias and Sub villages/Vitongoji. The Ministries, National Institutions and Regions are forming the Central Government, while the Districts up to the sub village level or Vitongoji are known as Local Government Authorities.

1.3 Governance of Natural Resources and Environment

Natural resources in Tanzania are recognized and placed in the governance system that include fisheries, Forestry including Mangroves, Wildlife, Beekeeping, Antiquities, Marine and Freshwater biota. The Environment sector covers that of Human, Land, Water (both Marine and Freshwater) and Air that always surrounds and affect both human and nature. Land, minerals and energy issues though are always recognized as natural resources, in Tanzania these issues are placed and governed under their sector specific ministries.

The President has all the powers in the country including those related to the governance of all Natural Resources and Environment. These powers include those of establishing Ministries and institutions, Proclamation of Decrees and Orders, appointment of individuals who will be responsible for natural resources and environment governance in the country. This applies for both Tanzania Mainland and Zanzibar.

In the **Cabinet** (Ministers, Prime/Chief Minister, Vice President and The President), apart from the responsible Minister e, there is a permanent Cabinet Committee responsible for Lands, Natural resources and Environment whose work is to advise the President of those issues. The Cabinet is technically assisted by the **Inter-Ministerial Technical Committee (IMTC)** formed by Permanent Secretaries of the Ministries and supported by the **Cabinet Secretariat** responsible for organizing those meetings and reviewing the Government papers before presenting to the IMTC and the Cabinet.

In the **Parliament or House of Representatives** constituted by Members of Parliament (MPs), among other Permanent Parliament Committees, there is a Committee responsible for Lands, Natural Resources and Environment.

At Regional and District levels, there are Consultative Committees that are responsible for reviewing and advising the Regional and District executive wings on their Plans and budgets including those related to and Natural Resources and

Environment. The role of the Regional Government is primarily coordination and advising the Local Governments under their jurisdiction. At this level, there are Regional Advisors for every sector of importance and relevance to their region, Natural Resources and Environment are part of those sectors. At the District and all LGA levels, these are executors of all Policies, Laws, Strategies, Plans and Actions. There are responsible sector specific technical officers. These include those responsible for Fisheries, Forestry, Wildlife, Beekeeping, water, Environment etc. Furthermore, from District up to the Kitongoji level, there are politically and legally recognized Committees responsible for overseeing Natural Resources and Environment governance at their relevant level.

1.4 The Marine and Coastal settings and its socio economic importance

Tanzania coastal area stretches for about 1424 kilometers of coastline. It includes five coastal regions on Mainland namely, Tanga, Coast, Dar es Salaam, Lindi, and Mtwara as well as five coastal regions in Zanzibar namely Pemba North, Pemba South, Unguja North, Unguja South, and Unguja West. The country has also other large and small Islands in which coastal communities live. These Islands are Mafia, Songosongo, Kwale, Koma, Tumbatu, Kojani, Fundo, Panza, Makoongo, Uvinje, Kokobwa etc. There are also numerous islets in the sea and the coastal area also extends to the catchment areas. About two third of the coastline has fringing reefs often close to the shoreline broken by river outlets including the Rufiji. Pangani, Ruvuma, Wami, Matandu and Ruvu.

1.5 Continental Shelf and EEZ

The continental shelf is 5.8 kilometers wide except at the Zanzibar and Mafia channels where the continental shelf reaches a width of about 62 kilometers. The nation's total estimated area is 17,500 square kilometers. The Exclusive Economic Zone (EEZ) has an estimated area of 223,000 square kilometers.

1.6 General Coastal Climate

The climate along the coast of Tanzania is characterized by tropical humid weather conditions, mostly influenced by seasonal monsoon wind changes. There are two main seasonal cycles: **South East Monsoon** (April – Sept), characterized by low air temperatures (25° C), strong wind conditions and long rains (Kusi / *Masika*) and **North East Monsoon** (Nov – Jan), characterized by high air temp, weaker winds and short rains (Kaskazi / *Vuli*). There are also inter-monsoon periods (Matlai) – March/April and Oct/Nov characterized by calm wind conditions.

1.7 Socio Economic importance

The five coast regions of Mainland Tanzania encompass about 15 percent of the country's land with approximately 25 % of the country's population. Recent estimates indicate that the population of the coast regions grows at the rate of two to six percent. In year 2010 it is estimated that 16 million people live on the coast with about 110 people per square meter. The well being of the coastal people hinges very much on the coastal resources.

Tanzania recognizes the importance of its coastal and marine areas as the essential source of livelihood to its coastal communities. The well being of the coastal people hinges very much on the available coastal resources.

It is acknowledged also that the coastal area is of critical importance to the growth of the country's economy. The five mainland coastal regions contribute about one third of the country's Gross Domestic Product (GDP). Currently, 75% of the country's industries are located in urban coastal areas. There is a number of socio economic activities undertaken along the coastal area of Mainland Tanzania. These include industries, coastal tourism, mari-culture development, bio fuel investment, and natural gas exploration. There is also substantial but less-tapped potential for agriculture offshore fisheries, shipping, urban development, small scale mining and manufacturing.

1.8 Ecological values and challenges

The coastal waters, lagoons and continental shelves are important fishing grounds providing food and livelihood to the coastal communities. The mangroves, sea grass meadows, and coral reefs provide coastal protection and shelter to fishes, crustaceans, mollusks and other organisms of ecological and commercial value. However, the rapid increase in the coastal population has had a corresponding pressure on the demand for coastal resources due to increase in human activities. The coastal and marine environment has started showing signs of serious degradation.

The Major challenge is that the impacts of human activities in the coastal and marine environment in Tanzania are not confined to national borders. Hence the protection and management of the shared ecosystem require a regional approach.

The rapidly expanding coastal populations of the region exert ever-increasing pressure on coastal habitats and resources. Land-based anthropogenic activities such as agriculture and industry, coastal urbanization, tourism and rock/mineral extraction, disturb natural condition and processes, degrading coastal resources and habitats. The effects have serious social and economic implications.

Cognizant with that situation, Tanzania like other governments in the WIO region, has taken a number of initiatives to address that challenge. These initiatives range from Policy, legal and institutional setting intended to govern effectively the country's coastal and marine resources. The most important of those are the formulation of a number of Coastal Marine resources relevant policies and enactment of their laws including environmental legislation, EEZ Act and the National Integrated Coastal Environment Management Strategy (NICEMS) as a tool to guide the management and sustainable use of coastal and marine resources. Today, various projects and programs are implemented within those frameworks.

1.9 This assessment

The objective of this assessment is to present the policy, legal and institutional information that will assist both the Government of Tanzania and the ASCLME in its efforts to protect the marine environment and achieve the sustainable development of coastal and marine areas through Ecosystems Based Management Approach through the Agulhas and Somali Current Large Marine Ecosystem initiative.

1.10 METHODOLOGY

This assessment is primarily a desktop study, based upon secondary sources, relied on documented sources such as relevant previous regional and national reports, and national legislative, policy and similar instruments. Libraries, relevant offices, agencies and authorities, and the Internet were point sources of information and documentation. Other methods were telephone, email and attending organized meetings and conferences.

CHAPTER 2: SOCIO ECONOMIC ACTIVITIES IN THE COASTAL AND MARINE AREAS OF TANZANIA

This chapter outlines the various social economic activities undertaken in the coastal areas of Tanzania that could be worthy to consider when addressing any issue of governance of the coastal and marine resources and environment.

2.1 ACTIVITIES IN THE COASTAL AND MARINE AREAS

Generally, the socio-economic activities undertaken in the coastal and marine areas of Tanzania, fall within the following categories:

Agriculture undertaken in the form of large and small scale cultivation of food and cash crops including horticulture characterized by the use of agrochemicals,

pesticides and insecticides, water resources development projects such as construction of dams, water supply, flood control, irrigation and drainage systems, as well as biological pest control, agricultural projects sometimes necessitating the resettlement of communities, introduction of new breeds of crops, and the introduction of new organisms.

Livestock and range management that involve small and large scale livestock keeping and movement, which always need large area and hence expanding to agricultural land resulting to conflicts between livestock keepers and farmers.

Forestry, that involve timber logging and processing, introduction of new tree species and development of tree plantations, afforestation and reforestation for carbon sequestration, construction of roads inside forest reserves, commercial charcoal and other forest harvest operations, establishment of commercial logging and conversion of forest land to other land uses within catchment areas;

Fisheries, ranging from medium to large scale fisheries, aquaculture for fish, algae, crustaceans, shrimps, lobsters, and clams which include introduction of new species in water bodies, large scale fish farming including prawn farming, industrial fish processing and storage, and introduction of other new aquatic species.

Wildlife conservation, catching and trading, establishing hunting blocks, new protected areas which involve resettlement of communities, wildlife ranching and farming, zoo and sanctuaries are among of the wildlife related activities that are being practiced in the coastal areas;

Tourism and Recreational development especially construction of resort facilities or hotels along the shores of the rivers, island as well as the ocean, development of tourism or recreational facilities in protected and adjacent areas i.e. national parks, marine parks, forest reserves etc, on island and surrounding waters, camping activities walk ways and trails, Major construction works for sporting purposes;

Energy, mainly production and distribution of electricity, gas, storage of natural gas, thermo power development i.e. construction of hydro electric power, development of renewable and non renewable sources of energy,

Petroleum industry, that involves oil and gas fields exploration and development, construction of offshore and onshore pipelines, construction of oil and gas separation, processing, handling and storage facilities, construction of oil refineries, construction and or expansion of product depots for the storage of petrol, gas, diesel, tar etc in commercial or residential areas, and transporting of petroleum products.

In the category of **Transport and infrastructure** land based activities include construction, expansion or rehabilitation of new trunk roads, airports, airstrips and their ancillary facilities, construction of new or expansion of existing railway lines, shipyards, or harbor facilities, installation and expansion of communication towers,

There are also **food and beverage industries** in the coastal area of Tanzania. Under this category, major industries include food and beverage industries, manufacturing of dairy products, vegetable and animal oil and fats, oil refinery and ginneries, brewing, distilling and malting, fish mill factories, slaughter houses, soft drinks, tobacco processing, canned fruits and sources, sugar factories, and other agro-processing industries,

Textile industries comprise of cotton and synthetic fibers, dyeing for cloth, and ginneries,

Another category is **leather industry**. This category comprises of tanneries, dressing factories, and other cloth factories,

Wood, Pulp and Paper industries i.e. large scale manufacture of veneer and plywood, fiber board and particle board, paper, pulp and sand-board cellulose mills,

Building and Civil Engineering industries, in the form of industrial and housing estate, major urban projects such as multi storey buildings, motor terminals, markets, construction, expansion or upgrading of roads, harbors, shipyards, fishing harbors, air fields, ports, railways pipelines, and development of beach fronts.

Chemical industries comprise of manufacturing, transporting, using, storing and disposing of pesticides, or other hazardous or toxic chemicals. Manufacture of pharmaceuticals products, storage facilities for petroleum, petrochemicals, petrol filling stations, production of paints, vanishes, soap and detergent plants, and manufacture of fertilizers.

Extractive industries i.e. extraction of petroleum, extraction and purification of natural gas, other deep drilling-bore-holes wells, and mining.

Non metallic industries in whose category manufacturing of cement, asbestos, glass-fiber, glass-wool, rubber, plastic materials, lime, tiles and ceramics are undertaken.

Metal and Engineering industries - manufacturing and assembly of motorized and non motorized transport facilities, body building, boiler making and manufacturing of reservoirs, tanks, and other sheet containers, foundry and forging, iron and steel, and electroplating.

Electrical and Electronic industries e.g. battery manufacturing, electronic equipment manufacturing and assembly.

For purposes of **managing waste** particularly solid, liquid (municipal sewage), hazardous waste treatment and disposal, activities undertaken include construction of waste water treatment plants, recovery plants (off-site), secure land fills facilities, and storage facilities off site, composting plants, and recovery/recycling plants, construction of marine out fall, night soil collection, transportation and treatment and construction of sewage system.

Water supply activities involve canalization of water courses, diversion of normal flow of water, water transfer schemes, abstraction or utilization of underground and surface water for bulk supply.

Land planning and development resettlement/relocation of people and animals e.g. establishing refugee camps, industrial and residential estates on ecologically sensitive areas including beach fronts, dredging of bars, groynes, dykes and estuaries, construction of hospitals, and land reclamation.

2.2 Impacts on the ecosystems, habitat, species and water quality in the coast region

All these activities have serious adverse impacts on the coastal and marine environment. They generate a lot of solid, liquid, hazardous, and gaseous waste. About 75% of the country's industries are located in urban coastal areas. Most industries discharge untreated waste water from their manufactory processes into rivers and streams which finally drain into the Indian ocean.

The capacity of institutions to enforce the prescribed rules and regulations and conduct monitoring is quite inadequate in terms of finance, tools and number of employed staff. If this will continue for years to come without effective measures to manage properly these activities, the result will be further deterioration of Coastal and Marine Resources and the Environment.

CHAPTER 3: POLICIES, LEGAL AND INSTITUTIONAL FRAMEWORK FOR GOVERNANCE OF THE MARINE AND COASTAL RESOURCES AND ENVIRONMENT.

3.1 Policy framework

There a number of policies that support Coastal and Marine Resources and Environmental Management and Governance in Tanzania. Those policies include the following:

a) *National Environmental Policy (1997)*

The Policy has identified identifies six major environmental problems in the country. These are:

- i) loss of wildlife habitats and biodiversity;
- ii) deforestation;
- iii) land degradation;
- iv) deterioration of aquatic systems;
- v) lack of accessible, good quality water; and
- vi) environmental pollution.

Therefore the overall objectives of the Policy are:

- i) To ensure sustainability, security and equitable use of resources for meeting the basic need of the present and future generations without degrading the environment or risking health or safety;
- ii) To prevent and control degradation of land, water, vegetation, and air which constitute our life support systems;
- iii) To conserve and enhance our natural and man-made heritage, including the biological diversity of unique ecosystems of Tanzania;
- iv) To improve the condition and productivity of degraded areas including urban and rural settlements in order that all Tanzanians may live in safe, healthful, productive and aesthetically pleasing surroundings;
- v) To raise awareness and understanding of the essential linkages between environment and development, and promote individual and community participation in environmental action; and
- vi) To promote international co-operation on the environmental agenda, and to expand our participation and contribution to relevant bilateral, sub-regional, regional, and global organization and programs, including implementation of treaties.

Paragraph 73-76 of the Policy outlines **economic instruments** as one of the instruments for its implementation. The Policy recognizes that economic instruments are not necessarily the most effective means of choice for every environmental problem, however, their application can be linked to specific environmental problems, so that they are made relevant in their design and application to the problems. Already, deposit-refund schemes are practiced in Tanzania primarily to encourage the return of beverage containers, and shall be used for other products which can be recycled or recovered, and which create environmental problems if not disposed of in an acceptable manner, such as acid batteries and oils, or plastics with long life cycles.

The Policy also emphasizes on the application of **polluter-pays principle** which shall be adopted and implemented deterrently. In principle, it shall be the responsibility of those who pollute to repair and bear the costs of pollution caused and rehabilitation, where appropriate.

b) National Transport Policy (2003)

The Policy mentions five main objectives of the transport sector namely the need for a coherent policy, institutional arrangements, laws and regulation, capacity building and technological development.

The Policy emphasizes on the need to facilitate sustainable development by ensuring that all aspects of environment protection and management are given sufficient emphasis at the design and development stages of transport infrastructure and when providing service. Institutional framework and regulation is also important in the provision of effective, reliable and integrated transport service. The Policy recognizes the need for enhancing technical and managerial capacity building in the transport sector and that the low science and technology base is one of the main challenges in technological development.

c) National Human Settlement Development Policy (2000)

The Policy accepts the fact that development of human settlement in the country has not been sustainable because it has not combined socio-economic development with environmental conservation and protection. To achieve sustainability, the Policy emphasizes the following:

- a. Ensure that human settlement are kept clean and pollution effects of solid and liquid wastes do not endanger the health of residents
- b. Set environment quality standards of gaseous emissions from industries, vehicles etc; and institute a mechanism for monitoring air pollution levels;
- c. Encourage the use of alternative, affordable and appropriate sources of energy;
- d. Encourage and promote afforestation to match harvesting from woodlands, and
- e. Prohibit quarrying in river valleys in urban areas.

d) National Forestry Policy (1998)

The Policy seeks to achieve its policy goal of "enhancing the contribution of the forest sector to the sustainable development of Tanzania and the conservation and management of natural resources for the benefit of present and future generations."

The objectives of the Policy are to ensure sustainable supply of forest products and services by maintaining sufficient forest area, efficient management; increase employment and foreign exchange earnings through sustainable forest-based industrial development and trade; ensure ecosystem stability through conservation of forest biodiversity, water catchments and soil fertility; and enhance the national capacity to manage and develop the forest sector in collaboration with other stakeholders.

The Policy sets four priority areas for legislation and implementation, namely: forest land management; forest-based industries and products; ecosystem conservation and management; and institutional and human resources.

The Policy introduces a decentralized system of forest management which includes village forest reserves. Currently, the management responsibilities are delegated from the forest authorities to one or several executive agencies. Designation of village forest reserves will be managed by the communities. Village forest reserves will be managed by the village governments or other entities designated by village governments for this purpose, such as NGOs, user groups, associations, religious institutions, etc. This approach allows villages to control the rate of environmental degradation despite various institutional constraints encountered. Granted appropriate user rights and security of tenure as incentives for sustainable forest management, local communities are likely to participate actively and effectively in the conservation and management of their forest resources.

The problem at the community level in some areas is that there are no well established community based organizations (e.g. NGOs or CBOs) which are able to influence management of forestry activities. The NFP addresses this problem by stating, "in order to improve forest conservation and management, and to ensure equitable sharing of benefits amongst all stakeholders, joint agreements between the central government, specialized executive agencies, private sector and local governments, as appropriate in each case, and organized local communities or other organizations of people living adjacent to the forest will be promoted."

e) National Land Policy (1995)

The overall objectives of the Policy are: to promote and ensure a secure land tenure system; to encourage the optimal use of land resources; and to facilitate ecological balance of the environment.

The Policy emphasizes on integrated planning and improved management of urban centers and designation of urban and land uses based on environmental impact considerations.

Despite the long-term efforts by the Government to implement the Policy, it is estimated that up to 70% of urban inhabitants live in informal settlements characterized with inadequate basic infrastructure.

f) National Tourism Policy (1999)

The Policy seeks to assist in effort to promote the economy and livelihood of the people, essentially poverty alleviation, through encouraging the development of sustainable and quality tourism that is culturally and socially acceptable, ecologically sustainable, and economically viable.

The specific objectives of the Policy include:

- i) Creating employment, promoting human resource development and investment opportunities through the development of private entrepreneurship in the tourism sector;
- ii) Stimulating the development of the infrastructure, support institutions, and linkages among the institutions related to tourism;
- iii) Stimulating the transfer of technology and the development of local industries, the produce goods and services for the tourism industry;
- iv) Encouraging cross-cultural exchange and enhance local and international understanding;
- v) Promoting and developing tourism that is ecologically friendly and environmentally sustainable;
- vi) Promoting and developing land for tourism in an co-ordinated manner so as to attract private investment and ensure sustainable tourism development; and
- vii) Preserving and better managing the country's rich cultural and natural heritage as tourist attractions and for the benefit of present and future generations.

The Policy emphasizes that the relationship between the environment and development of sustainable tourism is so closely knit that the two cannot be dealt with in isolation. It also stress that protection, enhancement and improvement of

various components of man's environment are therefore among fundamental conditions for harmonious development of tourism. The Policy states clearly that the development of tourism will be based on careful assessment of carrying capacities of tourism products and ensure enhancement and improvement of special environment features in order that tourism development does not conflict with indigenous forests, beaches, mountains and other important vegetation.

g) National Water Policy (2002)

The main objective of the Policy is to develop a comprehensive framework of sustainable development and management of the nation's water resources, in which an effective legal and institutional framework for its implementation will be put in place.

The Policy has identified six instruments for its implementation and these are:

- i) Technical instruments including gating of abstractions, flow metering and application of cleaner production technology;
- ii) Economic instruments including water pricing, charges, penalties and incentives;
- iii) Administrative instruments including information management systems and monitoring, information products, water resources plans and guidelines;
- iv) Legal instruments including restrictions prohibitions;
- v) Regulatory instruments that includes appropriate management structures and procedures;
- vi) Participatory instruments including sensitization, community education, consultations and discussions.

h) National Science and Technology Policy (1996)

The broad objectives of the science and technology policy for Tanzania include:

- i) promote science and technology as tools for economic development, the improvement of human, physical and social well-being, and for the protection of national sovereignty;
- ii) Inculcate a science and technology culture in the Tanzania society;

- iii) establish and/or strengthen national science and technology institutions through provision of adequate facilities;
- iv) establish appropriate legal framework for the development and transfer of technology including intellectual property rights, monitoring and controlling of the choice and transfer of technology, as well as bio-safety; and
- v) proper rational utilization of natural resources, including energy resources, and environmentally sound technologies in order to maintain sustainable ecological and social balance.

In reference to the environment sector, the goal of the Policy (paragraph 27) is to conserve and protect the environment, and rational and efficient utilization of resources. The Policy recognizes the essential links between sustainable development and sound environmental management by seeking to ensure that economic development is accompanied by proper environmental management so that natural resources and heritage are passed on.

In relation to the environment, some of the strategies to be pursued by the Policy include:

- preparing and adhering to integrated land use plans;
- monitoring of the status of the environment;
- promoting knowledge and awareness on environmental issues;
- preserving biodiversity on land and in the sea;
- preventing pollution of water resources;
- incorporating EIA for the design of development projects; and
- devising mechanisms for access to transfer of environmentally safe and sound technologies.

i) Energy Policy (2003)

The Policy objectives are to ensure availability of reliable and affordable energy supplies and their use in a rational and sustainable manner in order to support national development goals. The Policy therefore aims to establish an efficient energy production, procurement, transportation, distribution and end-use systems in an environmentally sound manner.

In relation to addressing environmental concerns in the energy sector, the Policy aims to:

- Promote EIA as a requirement for all energy programs and projects;
- Promote energy efficiency and conservation as a means towards cleaner production and pollution control measures;
- Promote development of alternative energy sources including renewable energies and wood-fuel efficient technologies to protect woodlands; and

- Promote disaster prevention, response plans and introduce standards for exploration, production, conversion, transportation distribution, storage and fuel end-use.

j) National Sustainable Industrial Development Policy (1996-2020)

The Sustainable Industrial Development Policy (SIDP) gives a framework of broad guidelines on factors, which influence the direction of the country's industrialization process for a period of 25 years.

In order to ensure promotion of environmentally friendly and ecologically sustainable industrial development, the Policy targets to:

- Carry out sensitization on environmental awareness;
- Strengthen legal regime and related institutional capacity;
- Incentive mechanism on investments that promotes environmental conservation;
- Enforce EIA and appropriate mitigation measures for all projects; and
- Promote application of an integrated preventive environmental strategy to industrial processes, products and services.

k) Agriculture and Livestock Policy (1997)

The Agriculture and Livestock Policy of 1997 recognizes the need to improve agri-technics and agricultural practices which enhance higher productivity and hence economic growth.

Policy objectives of relevance to the environment include: to assure basic food security to the nation and increase nutritional standards; to increase foreign exchange earnings for the nation by increased production and exportation of cash crops; to produce and supply raw materials to local industries both from crops and livestock; to promote integrated and sustainable use and management of natural resources; and to promote specifically the access of women and the youth to land, credit, education and information.

l) The Mineral Policy of Tanzania (1997)

The Policy aims to attract and enable the private sector to take the lead in exploration, mining development, and marketing whereas, the role of the public sector is to stimulate and guide private mining investment by administering, regulating, and promoting the growth of the sector.

The Policy objectives include: to regularize and improve artisanal mining; to ensure that mining wealth supports sustainable economic and social development; to minimize or eliminate the adverse social and environmental impacts of mining development; and to alleviate poverty especially for artisanal and small-scale miners.

The Policy emphasizes on integrating environmental and social concerns into mineral development programs. To achieve this objective, the Policy aims to initiate actions to: reduce or eliminate the adverse environmental effects of mining activities; improve and health and safety conditions in mining areas; and address social issues affecting women, children and the local community.

The Policy provides specific strategies for environmental protection including the following:

- i) Drawing up comprehensive environmental management programs for the mining industry;
- ii) Establishing effective environmental regulations and putting in place procedures for monitoring compliance;
- iii) Setting up and strengthening the institutional capacity for monitoring and enforcing environmental regulations;
- iv) Requiring carrying out of EIA for new projects;
- v) Instituting environmental audits for existing mines to evaluate their performance and identify areas for improvement;
- vi) Specifying procedures for determining environmental liability;
- vii) Providing rules for setting up reclamation funds to reinstate land to alternative uses after mining;
- viii) Setting appropriate guidelines for allowing the conduct of mining in restricted areas such as forests, national parks, and water catchment areas;
- ix) Abating the use of toxic chemicals and pollutants by promoting environmental friendly technologies;

m) Health Policy (1990)

The overall objective of the health policy in Tanzania is to improve the health and well-being of all Tanzanians, with a focus on those most at risk and to encourage the health system to be more responsive to the needs of the people.

The specific objectives of the Policy includes, among others: to ensure that health services are available and accessible to all urban and rural areas; to control communicable diseases and treatment of common conditions; to sensitize the community on common preventable health problems; and to promote awareness in government and the community at large that health problems can only be adequately solved through multi-sectoral cooperation.

n) National Trade Policy (2003)

The Policy recognizes environment as one of the two cross-cutting issues together with gender and it subsequently acknowledges the need to link growth and development to the optimal use of resources. It also notes that, 'the push for economic transformation and growth tends to lead to environmentally degrading practices and hence mitigation strategies should be adopted to promote environmentally sustainable production practices.'

The Policy notes the various efforts taken in the country to protect and conserve the environment. However, the Policy relates the continued degradation of the environment in the country still experiences to weak capacity to administer and enforce implementation of environmental regulations. It therefore calls for the strengthening of institutions entrusted with the enforcement of environmental laws and regulations. The Policy include the following measures to be taken:

- i) Mainstreaming environmental issues into the development agenda
- ii) Establishment of environmental policies and guidelines to ensure that environmental issues are considered during formulation and implementation of growth strategies

o) Wildlife Policy (1998)

The Policy aims to better address the problems and obstacles that have plagued wildlife management in Tanzania. The vision for the wildlife sector as envisioned by the policy is to:

- Promote conservation of biological resources;
- Administer, regulate and develop wildlife resources;
- Involve all stakeholders in wildlife conservation and sustainable utilization, as well as in fair and equitable sharing of benefits;
- Promote sustainable utilization of wildlife resources;

- Raise the contribution of the wildlife sector in country's Gross Domestic Product (GDP) from about 2% to 5% ;
- Contribute to poverty alleviation and improve the quality of life of the people of Tanzania ; and
- Promote exchange of relevant information and expertise nationally, regionally, and internationally.

The Policy recognizes the role of the Government, private sector, local and international donors, NGOs, and the public in the management of wildlife in Tanzania. Also the policy advocates for the transfer of the Wildlife Management Areas (WMA) to local communities and ensure that the local communities obtain substantial tangible benefits from wildlife conservation whilst taking wildlife protection responsibilities.

The policy, nonetheless, retains state ownership and control of wildlife resources. Continued state ownership and control of wildlife resources perpetuates the "wildlife-first" philosophy of biodiversity conservation, the use of a protected area network as a principal management tool, and patron-client relationships that have marked government-community relations in wildlife and other natural resource management.

p) National Fisheries Sector Policy and Strategy Statement (1997)

This policy was published by the Ministry of Natural Resources and Tourism in 1997. The policy recognizes that renewable resources are limited and hence the need to seek ways and means to better conserve, manage and develop them on sustainable basis. The policy also provides that the existing natural resources management and development face identical problems. These include conflicting sectoral policies, lack of general appreciation of the value of natural resources and, therefore, their need for conservation and management, as well as a central point for co-ordination.

The overall goal of the National Fisheries Policy is to promote conservation, development and sustainable management of fisheries resources for the benefit of present and future generations. On fisheries resources and aquatic environmental protection, the policy mentions the requirement to integrate conservation and sustainable utilization of the fisheries resources into the socio-economic programs of the community, encourage and support all initiatives leading to the protection and sustainable use of fish stock and aquatic resources and to protect the productivity and biological diversity of coastal and aquatic ecosystems through prevention of habitat destruction, pollution and over exploitation. Among the strategies stated by the policy as a means to achieve that objective is promoting protection of fragile ecosystems, ecosystem processes and conservation of

biodiversity. Also the policy explains the need for protection of endangered species throughout their life. It further provides for the protection of vulnerable species, habitats and areas of special ecological significance through according special legal status to such areas such as marine parks, marine reserves and closed breeding areas. Other strategies include:

- Discouraging of mining of live coral to minimize destruction of coral reef ecosystem in order to protect the coastal area environment;
- Collaborating with other relevant sectors to develop water quality monitoring system;
- Adopting relevant regional and international protocols and treaties for the protection and conservation of fisheries resources and aquatic environment; and
- Promoting collaborative management approaches with user communities to areas designated as protected areas such as Marine Parks and Marine Reserves.

On regional and international cooperation with the objective of protecting marine environment, the policy mentions the need to strengthen that relationship for sustainable exploitation, management and conservation of the resources in shared water bodies and the Exclusive Economic Zone. Strategies for achieving this objective include strengthening environmental strategies by improved surveillance of prohibited fishing practices and water pollution through co-operation with other national and international institutions. The policy also calls for active participation in regional and international programs to enhance sustainable management of the resources in the Exclusive Economic Zone, as provided for under the UN Conventions.

q) National Integrated Coastal Environment Management Strategy (2003)

The National Integrated Coastal Environment Management Strategy (NICEMS) puts the foundation of coastal governance in Tanzania. Apart from identifying the six broad governance issues facing the coastal and marine environment, it also lay down seven Strategies that are implementable to solve the identified issues through Integrated Coastal Management Approach:

- Strategy 1. Support environmental planning and integrated management of coastal resources and activities at the local level and provide mechanisms to harmonize national interests with local needs.
- Strategy 2. Promote integrated, sustainable and environmentally friendly approaches to the development of major economic uses of the coastal resources to optimize benefits.

- Strategy 3. Conserve and restore critical habitats and areas of high biodiversity while ensuring that coastal people continue to benefit from the sustainable use of the resources
- Strategy 4. Establish an integrated planning and management mechanism for coastal areas of high economic interest and/ or with substantial environmental vulnerability to natural hazards.
- Strategy 5. Develop and use an effective coastal ecosystem research, monitoring and assessment system that will allow available scientific and technical information to inform ICM decisions
- Strategy 6. Provide meaningful opportunities for stakeholder involvement in the coastal development process and the implementation of coastal management policies
- Strategy 7. Build both human and institutional capacity for inter-disciplinary and intersectoral management of coastal environment

This strategy also defines the boundary of operation and gives the institutional Structure for Coastal Management in Tanzania. The Strategy goes further to Action Plan and timing of events for implementing the major actions identified. The Strategy duration is up to 2025. The NICEMS provides a framework under the National Environment Policy that links sectors at all levels of governance and creates partnerships among stakeholders towards sustainable use of coastal resources and development. The NICEMS is currently under minor review (2010) to incorporate the current government structure and new coastal developments.

These policies and strategies envisage that by integrating environmental considerations in the decision making process it is possible to avoid or minimize impacts associated with socio-economic activities that may have negative effects on the environment. In addition these policies provide framework/directives to ensure minimum impacts on the concerned natural resources and sensitive ecosystems and welfare of the coastal communities. However, the implementation of these policies leaves much to be desired.

3.2 The Legal framework

The legal framework in the United Republic of Tanzania is mainly based on the Constitution of the United Republic of Tanzania, Acts of parliament, Subsidiary legislation, judicial decisions, the substance of common law of England, Principles of equity, Islamic law and Customary laws. Being the state regulated mainly by written

laws, Tanzania can comply with her international obligations through her pieces of legislation.

The legal system has a considerable legislative and institutional coverage of environmental issues, including coastal and marine environment. Despite the legislative and institutional coverage, environmental law in Tanzania is scattered, sector based, overlapping and at times conflicting. Environmental law in Tanzania is not a homogeneous system of law as it comprises of diverse rules of administrative law, constitutional law, law of torts and criminal law.

3.2.1 Constitution of the United Republic of Tanzania of 1977

The Constitution of the United Republic of Tanzania of 1977 and the Zanzibar Constitution of 1984 with its reviews recognizes the right of inhabitants of Tanzania to enjoy and protection of their lives, which by implication includes right to clean environment. Article 14 of the Constitution states that "every person has the right to live and to the protection of his life by the society in accordance with the law".

Article 27 (1) of the Constitution stipulates that: "every person is obliged to safeguard and protect the natural resources of the United Republic, State property jointly owned by the people, as well as to respect another person's property". In addition, the Constitution obliges the State and all its organs to ensure that the natural resources and heritage are harnessed, preserved and applied to the common good of Tanzanians (Article 9(1) (c) of the Constitution). These provisions on the protection of the natural resources can logically be extended to cover the environment. However, the Government of the United Republic of Tanzania is currently (2011) in the process of reviewing the Constitution and these issues of Environment and Coastal and Marine Governance are highly recommended by the public to be explicitly mentioned in the new or reviewed Constitution. The process of Constitutional Review or formulation of new one is planned to end 2015.

3.2.2 The Environmental Management Act, Cap 191 (EMA)

This is the framework environmental law of Tanzania. This Act was enacted by the Parliament of the United Republic of Tanzania in the year 2004. It came into operation on the 1st day of July 2005 vide Government Notice No. 170/2005. Prior to

its enactment, environmental management issues were governed and regulated by sector laws.

Thus, The Environmental Management Act, 2004 establishes an administrative and institutional arrangement that is designated to facilitate administration of environmental matters across the different Government institutions from the local to national level.

The Act provides for the Legal and Institutional framework for the sustainable management of the environment, outlines principles of environmental Management, environmental impact & risk assessment, prevention and control of pollution, waste management, environmental quality standards, public participation in environmental decision making & planning; environmental compliance & enforcement implementation of international instruments on environment, implementation of the National EP and it repeals the National Environmental Management Act, 1983.

In its legal framework, the Act creates legal rights (SS.4, 5, 18(3), 172,178(2), impose duties, obligations (S.6), assign roles and functions, confers powers and limits over its institutions. The Act is an umbrella law in the sense that it overrides all other laws (sector laws) on environmental management issues (SS.232. The provisions of EMA override the provisions of all other laws that are inconsistent with the provisions of EMA. Section 31 (2) of the EMA imposes the duty on the Sector Ministries not to carry out functions stipulated under their respective laws that are inconsistent with the EMA.

It establishes general environmental principles, including the right to a clean, safe and healthy environment for every person living in Tanzania; and the right to bring an action for environmental harm or damage. Every person living in Tanzania has a duty to safeguard and protect the environment.

The Act also defines principles of environmental management and obliges all persons exercising powers under the Act or any other written law to promote or have regard to the National Environmental Policy.

The Act directs every local government authority to prepare an Environmental Action Plan below the National Environmental Action Plan identifying environmental problems prevalent in its area of jurisdiction (S.42). Likewise sector ministries are obliged at an interval of five years to prepare and submit to the Minister a sector Environmental Action Plan.

Protection of ecologically sensitive areas has been exceptional attention in the Act. The Minister has power under the Act to declare any area of land to be an environmentally sensitive area (S.47) and their management becomes the responsibility of the NEMC. The same power may be invoked to protect wetlands by declarations.

Each managing authority of National Protected Area is duty bound to prepare an Environmental Management Plan identifying *inter alia* areas of biological diversity (S.49).

Ecologically fragile areas like swamps, areas prone to soil erosion, or to land slide, arid and semi arid lands, and all hazardous lands are all declared by the Act as environmentally sensitive areas (S.52).

Rivers, river banks, lakes, or lakeshores and shore lines are protected from environmental degradation by a ministerial declaration to be protected areas and impose restrictions as the minister deems appropriate notwithstanding any other laws regulating them (S.54).

NEMC and LGAs are responsible for issuing guidelines for the protection of Rivers, river banks, lakes, or lakeshores and shorelines. Once guidelines are issued, it will be a criminal offence to use, erect, construct, place, alter, extend, remove or demolish a structure in under the ocean, natural lake shorelines, riverbank, or water reservoir, or excavate, drill tunnel or disturb the shorelines of the natural lake river bank or water reservoir. It is a offence also to introduce or plant into such water bodies a plant or any part of a plant or its specimen whether alien or indigenous, dead or alive or deposit a substance into such water bodies which is likely to have adverse environmental effects, or to direct, block or drain a river, its bank, a lake or its shores or shoreline or a wetland (S.55). Unfortunately, up to the time of writing this report no guidelines have so far been made by the Council for the protection of protection of Rivers, river banks, lakes, or lakeshores and shorelines.

Wetland also are protected in the same manner and managed by respective sector ministries (S.56)

However, to date the Minister responsible for environment has not made regulations for the protection of wetlands per S. 56 (5).

The Act prohibits in mandatory terms any human activities of a permanent nature or which by their nature, likely to compromise or adversely affect conservation and or the protection of ocean or natural lake shorelines, riverbanks, water dam or reservoir from being conducted within sixty meters (S.57). The Minister is tasked to make guidelines for conducting human activities within these areas, but again guidelines have not been made. Likewise regulations for promotion of integrated coastal zone management are not yet made by the Minister (S.59).

Under the Act, every person applying for a water use permit is obliged to make a statement on the likely impact on the environment due to the use of water requested.(S.60(1)). He is also under obligation to the satisfaction of the Water Basin Boards to return the water to the water body from which it was taken, to ensure that the water that is returned is not polluted and to take precautions to

prevent accumulations in any river, stream, or water course of any silt, sand, gravel, stones, sawdust refuse, sewerage, sisal waste or any substances likely to injuriously affect the use of that water by human and other components of the environment.

The Act provides for the conservation of biological diversity *in situ* as well as ex-situ subject to regulations made by the Minister, measures of addressing issues of climate change, elimination of persistent organic pollutants (POPS) from the environment, of dealing with prior informed consent (PIC) chemicals. The Act also stresses the use of cleaner production technologies.

Tanzania like other countries has adopted EIA as a tool for managing the environment. The Act places an obligation over every person who wishes to undertake any development activity or project of a type specified in the Act or its regulations to carry out at his own cost an EIA and obtain a certificate prior to commencing his project (Part VI).

Strategic Environmental Assessment (SEA) is a mandatory requirement for proposed Bills, Regulations, Policies, Development Plans, Strategies, and Programs. The aim is to know the likely impact they will have on the environment at the time of their implementation.

The Act also provides a mechanism for prevention and control of pollution (Part VIII).

Creates offenses where a person pollutes the environment in contravention of standards prescribed by the Act or other written environmental laws. It is an offense also to allow poisonous or noxious liquid from manufactory processes to flow into a stream or to discharge any hazardous substances, chemical or oil or their mixture into a water body or other environment (SS.109, 110)

Organizations or individuals transporting, trading, using, storing, or disposing of chemical, oil, toxic substances, inflammables or explosive substances must comply with regulations prescribed by the Minister. But the Minister has not yet prescribed the regulations.

The Act provides for legal and institutional framework for the management of solid, liquid, gaseous, and hazardous wastes. This is mainly the responsibility of LGAs. It directs minimization of generation of hazardous wastes and that their disposal must be done in an environmentally friendly manner and that EIA must be done before their disposal.

Part X provides for legal and institutional framework for formulation, enforcement and compliance with environmental quality standards for pollution control. Every person undertaking any activity must comply with environmental quality standards (S.141).

Part XI provides for powers to issue administrative orders for control of various forms of environmental degradations e.g. environmental restoration, easement, and conservation orders while Part XIII provides for legal and institutional framework for environmental information, education and research. Freedom to access publicly held information is guarantee to every Tanzanian. Public participation in environmental decision making is also guaranteed under Par XIV.

Part XV provides for legal and institutional framework for international cooperation in environmental management issues e.g. transboundary environmental issues, coordination of implementation of international agreements etc.

Part XVI provides for legal and institutional framework for ensuring compliance with the Act, creates various offenses and stipulates respective penalties. Provides for the powers of NEMC to issue administrative orders such as prevention, protection and compliance orders to address a variety of causes of environmental degradations.

Several regulations namely;

- (i) **The Environmental Management (Registration of Environmental Experts) Regulations, 2005, (GN No. 348/2005),**
- (ii) **The Environmental Impact Assessment and Audit Regulations, 2005, 2005, (GN No. 349/2005),**
- (iii) **The Environmental Management (Air Quality Standards) Regulations, 2007, (GN No. 237/2007),**
- (iv) **The Environmental Management (Soil Quality Standards) Regulations, 2007, (GN No. 238/2007),**
- (v) **The Environmental Management (Water Quality Standards) Regulations, 2007, (GN No. 239/2007)** and the
- (vi) **The Environmental Management (Control of Ozone Depleting Substances) Regulations, 2007, (GN No. 240/2007)** have been made by the Minister to give effect to the provisions of the Act.

Others include;

- (vii) **The Environmental (Solid Waste Management) Regulations, 2009, GN No. 263/2009**
- (viii) **The Environmental Management (Hazardous Waste Control) Regulations, 2009, (GN No. 264/2009),** and the
- (ix) **The Environmental Management (Bio-safety) Regulations, 2009, (GN No. 265/2009)**

In Zanzibar, there is **the Environmental Management for Sustainable Development Act (Environment Act) of 1996, which** addresses all the environmental Management and governance issues in Zanzibar.

3.2.3 The Plant Protection Act (1997)

The main thrust of the Act is prevention and control of attacks by, or spread of harmful organisms or diseases in Tanzania. The Act includes:

- a) Right of entry and destruction of infectious articles (Section 5);
- b) Contingency measures for containment of outbreaks of pests (Section 6);
- c) Power granted to the Minister to make special regulations (Section 7);
- d) National quarantine measures and plant import and export control (Section 8);
- e) Importation for research (Section 9);
- f) Conveyance and goods in transit (Sections 10 and 12); and
- g) Regulations on plant protection substances and plant resistance improvers for the protection of human and animal health or averting dangers, particularly to the natural environment (Section 16).

3.2.4 Industrial and Consumer Chemicals (Management and Control) Act of 2003

The Act provides for the management and control of the production, import, transport, export, storage, dealing and disposal of industrial and consumer chemicals in the country. The Act provides for the registration, restrictions, prohibition and inspection of chemicals. Furthermore it has provisions for safe handling, chemical wastes, accidents; management of spills and contaminated sites and decommissioning of plants. The Act established **Chemical Inspectors** for enforcing the law, who could offer significant enforcement capacity in the implementation of the Nairobi Convention and its upcoming Protocol.

3.2.5 The Merchant Shipping Act No.21 of 2003

The Act provides for, among others, pollution prevention and protection of marine environment and marine security.

Section 369 of the Act prohibits discharge of oil or oily mixture anywhere at sea unless under special circumstances.

Section 427 of the Act stipulates that for the purpose of giving effect to international agreement or treaty or instrument relating to shipping or the prevention of pollution of the marine environment, to which Tanzania is a Party, the Minister may make such regulations as may be necessary. In relation to this, Section 428 of the Act states that where an international convention or other international instrument applies to Tanzania and a provision of that convention or

instrument conflicts with a provision of this Act in any manner, the provision of the convention or instrument shall prevail unless the Minister otherwise provides.

Section 376 of the Act empowers the Minister to make regulations for prevention of marine pollution.

Section 378 of the Act places liability of oil pollution to the owner of the ship, except under special circumstances such as resulting from an act of war, hostility, insurrection or an act of God.

Others relevant laws are;

- i. **The Territorial Sea and Exclusive Economic Zone Act, 1989,**
- ii. **The Deep Sea Fishing Authority Act, 1998, and Regulations 2009**
(NB: These two laws (i&ii) covers both Tanzania Mainland and Zanzibar)
- iii. **The Tanzania Ports Act, 2004,**

3.2.6 The Fisheries Act No 22 of 2003

The Act provides for protecting, conserving, developing, regulating or controlling the capture, collection, gathering, manufacture, storage or marketing of fish, fish products, aquatic flora or products of aquatic flora. The Act repealed the Fisheries Act No. 6 of 1970.

Section 5 of the Act provides for designation of vessel registration and Licensing Officers; Enforcement Officers and Fish Inspectors. Further, Section 31 provides for the establishment of Surveillance Unit whose function is protection of fish and its environment, fishery products and aquatic flora against unlawful dealers and generally the enforcement of the Act.

Sections 43 and 44 of the Act prohibits use of explosives to kill fish or destroying aquatic flora; and possession of poison within the vicinity of any water body containing fish, respectively.

Section 49 of the Act provides for rewards to persons giving genuine and authentic information regarding offences leading to conviction of an offender.

Section 51 stipulates that all biological resources and their intangible products whether naturally occurring or naturalized within fisheries including genetic

resources shall be conserved and utilized for the people of Tanzania in accordance with the provision of existing relevant laws.

Section 52 of the Act requires undertaking of EIA to any development activities.

However, the Minister has yet to make regulations that, among others would provide for the protection of critical habitats and prevention of pollution of territorial waters. In Zanzibar there is **Fisheries Act 1998**, which caters for all fisheries matters in Zanzibar.

3.2.7 Local Government (Urban Authorities) Act No 8 (1982) and Local Government (District Authorities) Act No. 7 (1982)

The Acts provides measures to curb land degradation caused by human activities such as overgrazing, development of human settlements and use of fuel-wood. Furthermore, the Acts for both District and Urban Authorities state that the respective authorities may perform the following functions in respect of water supply and sanitation:

- establish, maintain, operate and control drainage and sewerage works;
- establish, provide maintain and control public water supplies and impose water rates; and
- Prevent the pollution of water in any river, stream, water course, well or other water supply in the area, and for this purpose prohibit, regulate or control the use of such water supply.

In addition, Township Authorities may provide and maintain supplies of water and, for that purpose, to establish and maintain water works and water mains.

3.2.8 The Standards Act of 1975

The Act provides for the promotion of standardization of specification of commodities. The act establishes the Tanzania Bureau of Standards (TBS) charged, among other things, with undertaking measures for quality control of commodities. It is of the opinion that TBS should further its influence on environmental compliance for instance by providing certificates to environmentally friendly manufacturing processes.

3.2.9 Atomic Energy Act of 2003

The Act provides for the control of the use of ionizing and non-ionizing radiation sources, the promotion of safe and peaceful uses of atomic energy and nuclear technology. The Act prohibits disposal of any radioactive waste on or from any premises used for any undertaking without a prior permit from the Tanzania Atomic Energy Commission in consultation with Local Authorities and other public agencies. Furthermore, the Act requires establishment of a Central Radioactive Waste Management Facility (CRWMF) which will serve as a national centre for collection, characterization, conditioning, segregation and generally the safe management of radioactive waste. A fee will be charged for the use of the facility.

Section 44 of the Act requires the Commission to establish a system for the determination and control of radiation exposures associated with naturally occurring radioactive materials including mining activities and processing of radioactive ores. Section 58 of the Act requires designation of **Radiation Safety Inspectors** with the overall mandate of enforcing the Act.

3.2.10 The Marine Parks and Reserves Act, 1994

The Act provides for the establishment, management and monitoring of marine parks and reserves. Section 3 of the Act establishes Marine Parks and Reserve Unit within the Division of Fisheries which, among others, is mandated to implement and enforce the Act and subsidiary legislation. Section 14 of the Act stipulates the requirement of General Management Plan for each marine park. Section 22 of the Act restricts certain activities to be undertaken in marine parks or reserves such as slat making, operating any vessel or vehicle, agriculture e.t.c. In relation to this, Section 24 of the Act restricts any commercial activity within a marine park or reserve unless permitted. Such activities include heavy industries, deposition of any oil, chemicals, or other hazardous substances; discharge of any sewage, litter or rubbish. Section 37 stipulates that Court may **award up to one half of any fine imposed for an offence to a person**, other than a person in the service of the Government, who supplies information leading to the conviction of an offender.

3.2.11 Tourism Act No. 29 of 2008

The Act provides for institutional framework, administration, regulation, registration and licensing of tourism facilities and activities. Section 3 of the Act strive to promote eco-tourism, cultural tourism and other forms of tourism that provides better sectoral linkages and foster sustainable development. Section 56 of the Act empowers the Minister responsible for Tourism to make regulations prescribing, among others, the requirements to be complied with before any facility or activity may be registered.

3.2.12 The Energy and Water Utilities Regulatory Authority Act No11 of 2001

The Act provides for establishment of the Energy and Water Utilities Regulatory Authority (EWURA). One of the functions of EWURA is promote the availability of regulated services to all consumers including low income, rural and disadvantaged consumers. The regulated sector includes electricity; petroleum and natural gas pipeline transmission and natural gas distribution; distribution of water and sewerage. Section 17 of the Act stipulates that EWURA shall carry out regular reviews of rates and charges. However, Section 7(1) (b) states that the regulation of water and energy service providers by EWURA is where this is specified in sector legislation.

Section 30 of the Act establishes EWURA Consumer Consultative Council whose function will be mainly to represent the interests of consumers and by making submissions to, providing views and information to and consulting with EWURA, Sector Ministries and other interested parties.

3.2.13 Business Activities Registration Act No. 14 of 2007

The Act provides for the establishment of business activities registration system and business registration centers. Section 16 of the Act requires any person carrying out business shall be conducted in light of any law or regulation governing activities of that business, including but not limited to, town planning regulations, health regulations, safety regulations, environmental regulations. Section 26 of the Act requires Minister responsible for Local Government to appoint Trade/Business Inspectors for implementing and enforcing the Act.

3.2.14 The Surface and Marine Transport Regulatory Authority Act No. 9 of 2001

The Act provides for the establishment of the Surface and Marine Transport Regulatory Authority (SUMATRA). One of the functions of SUMATRA is promote the availability of regulated services to all consumers. The regulated sector includes rail transport, ports and maritime transport, public passenger road transport and commercial road transport. Section 16 of the Act stipulates that SUMATRA shall carry out regular reviews of rates and charges. However, Section 6(1) (b) of the Act states that the regulation of water and energy service providers by SUMATRA is where this is specified in sector legislation.

Section 29 of the Act establishes SUMATRA Consumer Consultative Council whose function will be mainly to represent the interests of consumers and by making submissions to, providing views and information to and consulting with SUMATRA, Sector Ministries and other interested parties.

3.2.15 Commission for Science and Technology Act No. 7 of 1986

The Act provides for the establishment of the Tanzania Commission for Science and Technology (COSTECH). Its mandate, among others, is to provide research support for national science and technology policy development monitoring and evaluation.

The thrust of COSTECH through its National Centre for Development and Transfer of technology is to establish rules and regulations for rationalizing the acquisition, evaluation, choice, coordination and development of technology; as well as conceiving policy measures that would facilitate an enabling environment for technology autonomy and sustainable development.

Other roles of encompass:

- i) technology transfer and technology policy formulation through diagnostic studies;
- ii) developing a science and technology culture;
- iii) Ensuring private sector and technology-led development.
- iv) developing science and technology indicators;
- v) Building capacity in technology management and commercialization of technology innovation.

- vi) identification of technological needs for a variety of economic activities including, the acquisition and analysis of information required on alternative sources of environmentally sound technology from wide sources and its delivery to users;
- vii) evaluation and selection of technologies appropriate for the different demands;
- viii) un-packaging of imported technology, including assessment of suitability, direct and indirect costs, and the conditions attached;
- ix) identifying needed augmenting technologies and those required to support newly introduced technologies, whether imported or domestic;
- x) negotiating on best possible terms and conditions of the technology to be imported;
- xi) advice the government on available capabilities for adaptation; and
- xii) Diffusion of indigenous and foreign technology among users.

3.2.16 the Land Act Cap 113

This Act provides the basic law in relation to the management of land in Mainland Tanzania. Changing of land uses without adhering to prescribed procedures is prevalent in Tanzania. For instance a person granted a right of occupancy over a piece of land for construction of a residential may decide unprocedurally and unilaterally to change the use of that land into a commercial use. S.35 of the Act requires a person to apply to the Commissioner for Land for consent to change land use. Uncontrolled use of land has resulted into serious land degradations especially in coastal urban areas. Land degradation occurs because the infrastructure available at that place do not support the new land uses. Violation of land use renders the right of occupancy liable for revocation by the President (S. 45). But this is not the case in Tanzania.

The Act declares certain land to be reserved land hence protected degrading human activities. All land designated or set aside under the Forest Act Cap 389, The National Parks Act Cap 412, the Ngorongoro conservation Area Act Cap 413, the Wildlife Conservation Act No. 12 of 1974, the Marine Parks and Reserves Act, 1994, the Urban Planning Act, 2007, the Roads Act 2007 i.e. the road reserve areas, the public Recreational Grounds Act Cap 320, the Land Acquisition Act, 1967, land parcel within a natural drainage system from which the drainage basin originates, land reserved for public utilities, and land declared by an order of the Minister for Land to be hazardous land.

Ecologically fragile land development of which is likely to pose danger to human life or to lead to environmental degradation such as mangrove swamps and coral reefs, wetlands and offshore island, land designated for use as dumping sites for hazardous wastes, land within sixty meters of a river bank, shoreline of an inland lake, beach or coast and land specified by authorities as land that should not be

developed on account of its fragile nature or environmental significance are declared under S.7 to be hazardous land.

However the protection of reserved and hazardous land is not absolute. Upon complying with the procedures prescribed by the Act development can be permitted in both types of land.

3.2.17 The Village Land Act Cap 114

The Tanzanian coastline traverses through land under the jurisdiction of the villages. Given the breadths of village lands that traverse through the coastline, it is obvious that some reserved lands including most marine parks are found within village lands. The use of land in those areas will have to be in conformity with the restrictions imposed by the Marine Parks and Reserves Act 1994.

S.8 of the Village Land Act vests powers of managing the village land into the Village Council. In managing the village land, the Village Council must take into account among others the principle of sustainable development and the relationship between land uses, other natural resources and the environment in other contiguous lands. Allocation of a village land is subject to approval of the village assembly.

Village land is held under customary right of occupancy. S.14 recognizes the rights of different users of land in forest reserves as regulated by the Forests Act, 2002 to regulate the use of land under customary rights of occupancy. These provisions are relevant to the coastal forests which are being used or managed by village communities.

3.2.18 The Forest Act Cap 389

The coastal strip of Tanzania is endowed with a number of forest ecosystems. The Forest Act was enacted in the year 2002 with the objective of promoting and enhancing the contribution of the forest sector to the sustainable development of Tanzania, for promoting the conservation, use and management of forest resources, for ensuring ecosystem stability through conservation of forest biodiversity, water catchments and soil fertility. The Act is important for the protection and regulated use of coastal forests. It provides for legal and institutional framework for the management of forests including coastal forests.

The Act incorporates the EIA as a tool for managing the forests. It directs all development activities including mining activities to be subjected to EIA before being undertaken. S.22 confers powers upon the Minister to declare forest reserves.

The use of forest products also is subject to a permit system. Under S. 49 a permit is required to fell or extract timbers, gather or take away specified forest produce,

to enter, erect a building or structure, to hunt or fish or to allow domestic animals to graze etc in the forest reserve.

The Minister may declare certain tree species i.e. mangrove trees to be reserved trees. For purposes of preserving and maintaining biodiversity and genetic resources the Minister may declare certain wild plants to be reserved plants in line with an international agreement.

The Act through S.65 prohibits any person from burning vegetation on any land outside the cartilage of his own house or to deliberately kindle any fire that may spread and become destructive.

In Zanzibar there is **The Forest Resources Management Act of 1996**, which has similar approach to the above and caters for all forestry issues in Zanzibar.

3.2.19 The Local Government (Urban Development Control) Regulations, 2008, (GN No. 242/2008)

These regulations were made by the Prime Minister under powers conferred upon him by the Local Government (Urban Authorities) Act Cap 288. The Regulations provides conditions for control of insanitary premises, management of night soil including its disposal, prohibits depositing refuse on streets, pollution of water, control of slaughter houses and animals, fire in buildings or houses, straying animals, and construction of drainage. It regulates establishment and operation of markets,

3.2.20 The Mining Act, 2010, (Act No. 14/2010)

This Act is one of the recently enacted laws. It repeals and replaces the Mining Act 1998. The Act provides for legal and institutional framework to governs and regulate mining activities throughout Mainland Tanzania. Pertinent is to note that the Minister cannot grant a mining license to the applicant unless he produces to the Minister an EIA certificate issued pursuant to the provisions of the Environment Management Act Cap 191. The EIA will determine the likely impacts of the mining operations on the environment and suggest mitigation measures.

3.2.21 The Public Health Act, 2009, (Act No. 1/2009)

The Public Health Act is the most recently enactment. The Act provides for legal and institutional framework for promotion, preservation, and maintenance of public health. The Act replicates some of the provisions of the Environmental Management Act.

The Act regulates LBSA in a variety of manners. It regulates human and housing settlements. It provides for legal and institutional framework for the management

of solid and liquid wastes by prescribing conditions for keeping and maintaining dumping sites, collection and disposal of liquid wastes, designation of transfer stations etc. The Act also stipulates conditions for management and control of gaseous wastes from dwelling houses, industries and motor vehicles management of excreta, hazardous and health care wastes and their disposal.

The Act provides conditions for construction, maintenance and use of sewerage systems, latrines septic tanks etc. It regulates the establishment and operation of markets , supermarkets, shops, lodging, hotels, guest houses, hair dressing saloons, barber shops, swimming pools, public baths, schools and massage parlors, management of bars, restaurants, prohibits attendance of natural calls in areas other than toilets.

The Act creates offenses relating to violations of public health rules and stipulates penalties. Other legislations which provides for legal and institutional framework for addressing LBSA worth mentioning are;

3.2.22 The Water Resources Management Act, 2009 (Act No. 11/ 2009)

The Act provides for legal and institutional framework and outline principles for sustainable management of water resources. It incorporates provisions preventing and control water pollution, and for participation of stakeholders and the general public in the implementation of the National Water Policy, 2002.

The Act echoes the provisions of the Environmental Management Act to declare every person living in Tanzania to have a stake and a duty to safeguard and protect the water resources and to inform the relevant authorities of any activity and phenomenon that may affect the quantity and quality of water resources (S.7). The Act adopts SEA and EIA as tools for controlling water works. Any proposed development in a water resource area or a watershed must carry out an EIA in accordance with the provisions of the Environmental Management Act.

The institutional framework for the management of water resources under the Act include the establishment of the office of the Director of Water Resources, the National Water Board, the Basin Water Boards, Catchment and sub-catchment Water Committees, and Water User Associations.

The Act incorporates conditions for protection of water resources, imposes restrictions on the use of water during drought and disasters, establishes water protected zones, and ground water controlled areas.

The Act incorporates provisions for control of water pollution; prescribe conditions for water use permits, ground water permits, discharge permits and regulation of water user rights.

On trans-boundary waters, the Minister responsible for water may formulate policies, and strategies that will ensure sustainable, equitable utilization and management of trans-boundary waters (S.98). For instance where the URT becomes a party to an international or regional agreement concerning the management of the environment, the Minister shall initiate and prepare legislative proposals for consideration by the relevant ministry for purposes of implementing those agreements, and identify appropriate measures necessary for implementation of those agreements. These provisions replicate similar ones in the Environmental Management Act. S. 99 impose obligations over the Minister in relation to trans-boundary waters.

Finally, the Act creates offenses and stipulates severe penalties against water pollution in rivers, streams or watercourses or in any body of surface water.

3.2.10 The Water Supplies and Sanitation Act 2009 (Act No. 12/ 2009)

This Act provides for legal and institutional framework and outline principles for sustainable management and adequate operation of supply and sanitation of water resources with a view to giving effect to the National Water Policy 2002. It incorporates provisions preventing and control water pollution implementation of the National Water Policy, 2002. The Act establishes and provides functions and duties of water supply and sanitation authorities. Water supply authorities are duty bound to enter into a trade waste agreement for the discharge of waste into a sewerage system, to prohibit the discharge of certain wastes into sewerage a system.

The Act creates the offence of willfully or negligently damaging water works, any sewer, sewerage treatment plant or other assets of water supply authorities. Any person who unlawfully diverts or takes water from the water works also commits an offence.

There are other laws that also provide for legal and institutional framework relevant to coastal and marine resources and environment governance. It is worthy to mention just for noting:

- i. The Dar es Salaam Water Supply and Sewerage Act, 2001**
- ii. The Occupational Health and Safety Act, 2003 (Act No. 5 of 2003)**
- iii. The Roads Act, 2007**

iv. The Petroleum Act, 2008

There are several laws that provide for legal and institutional framework for regulating the marine environment. Since this report examines LBSAs it will to confine its scope to those laws which address land based sources and activities. Laws regulating the marine environment will therefore be outside the scope of this report hence will be mentioned by passing only.

But it is important to note the research has revealed that laws regulating the coastal and marine environment are fragmented and scattered across a variety of sectors.

3.3 Institutional framework

The Environmental Management Act (EMA) (Cap 191) of 2004 provides for the institutional framework for environmental management in the country. It confers the task of overall coordination of environmental management in the country and provision of the central support functions to the Ministry Responsible for Environment, which is the Vice President's Office. These functions concern the overall organization, rules coordination and the establishment of a coherent general context for environmental management. The placement of environment portfolio under the Vice President's Office is considered advantageous in that it offers strong policy and political influence, strong capacity for inter-sectoral coordination and creates high visibility for environmental management.

The Act confers the role of management of specific natural resources or environmental services, such as agriculture, fisheries, forestry, wildlife, mining, water, and waste management to **respective sector** Ministries and the Local Government Authorities. These functions are to a large extent directly operational and in addition to EMA they are also guided by sector specific policies and legislation such as the Forest Act, 2002, Fisheries Act, 2003, Wildlife Conservation Act, 1974, Mining Act, 1998, Land Act 1999, Village Land Act 1999 and other relevant pieces of legislation. Figure 1 provides the organogram of the institutional arrangement in accordance with EMA.

3.3.1 Specific Institutions for Environmental Management and their Functions

a) The National Environmental Advisory Committee

The Committee is created to advise the Minister for environment (the Vice President's Office-VPO in this instance) or any sector ministry on any environmental matter which may be referred to it.

b) The Minister Responsible for Environment

This Minister can articulate policy guidelines, make regulations, guidelines, can designate any institution to perform any function or do any activity within a

specified time. He can make rules for preparation of periodic environmental plans at sector level, can make regulations prescribing the procedure and manner in which Environmental Action Plans may be prepared, adopted and implemented. So far various regulations have been created to implement EMA. These include: Environmental Impact Assessment (EIA) and Audit Regulations, 2005; Registration of Environmental Experts Regulations, 2005, Strategic Environmental Assessment (SEA) Regulations, 2008; Environmental Quality Standards (Water, Air, Soil) Regulations, 2007; Fees and Charges Payable under EMA Regulations, 2007; Ozone Depletion Substances (ODS) Regulations, 2007; and Regulation on Prohibition of sell and use of Plastic Bags, 2007.

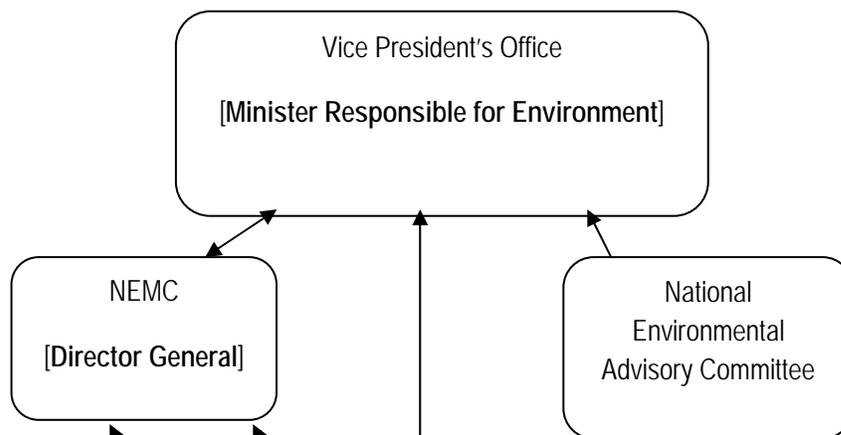


Figure 1: Institutional arrangements for environmental management in the country under EMA, 2004

c) The Director of Environment

The Director of Environment shall coordinate environmental activities, advise the government on the law and international environmental agreements on the environment, monitor and assess activities of relevant agencies, prepare and issue State of Environment Report. These functions are the day to day functions of the Director of Environment.

d) The National Environment Management Council (NEMC)

The function of the Council will among others include carrying out environmental audits, surveys, researches; review and recommend for approval of Environmental Impact Assessment; enforce compliance of the National Environmental Quality Standards; initiate procedure for the prevention of accidents which may cause environmental degradation; undertake programs to enhance environmental education; publish and disseminate manuals relating to environmental management; render advise and technical support to entities engaged in natural resources and environmental management; and perform any other functions assigned to it by the Minister responsible for environment. Most of these functions have been made day to day functions of NEMC.

e) The Sector Ministries

Each sector ministry shall carry out its functions and duties in connection with the environment according to EMA and any other law provided that such law does not conflict with EMA. Involvement of Sector Ministries in environmental management is through a sector environment section (SEs) which is to be established in each ministry to ensure that a ministry complies with the EMA. So far, since the enactment of EMA, Sector Environmental sections have been established in almost all sector ministries and Sector Environmental Coordinators have either been designated or employed in such ministries.

f) The Regional Secretariat

The Regional Secretariat is composed of a Regional Environmental Management Expert (REME) charged with the responsibility to advise the Local Government Authorities of that particular region on matters relating to implementation and enforcement of EMA. The REME links the region with the Director of Environment. So far since the enactment of EMA, several Regional Secretariats have either designated or employed Regional Environmental Experts.

g) The Local Government Authorities

Linked to the above institutional arrangements, EMA has vested to the Local Government Authorities the function of environmental management. It has created officers and has also designated to some committees certain environmental functions. These officers and committees are mentioned here below:

h) Environmental Management Officers

The law has created four categories of officers and these are:-

- City Environmental Management officer (CEMO)
- Municipal Environmental Management Officer (MEMO)
- District Environmental Management Officer (DEMO)
- Town Environmental Management Officer (TEMO)

These officers shall ensure the enforcement of the EMA 2004, and in particular their duties will include to:-

- Advise the environmental committees
- Ensure the enforcement of the EMA in their areas
- Promote environmental awareness
- Prepare reports on the state of environment
- Monitor preparation, review and approval of Environmental Impact Assessments (EIA) for local investments
- Review by laws on environment
- Report to the Director of Environment on the implementation of the EMA
- Perform any other assignment assigned by Local government authority.

i) **Environmental Committees**

The EMA also designates to the following committees the status of Environmental Management Committees. These committees are; Standing Committees on Urban Planning and Standing Committees on Economic Affairs, Works and Environment.

The powers of these committees under the EMA are provided for in the law to include:-

- Initiate inquiries and investigations about any allegation related to the environment and the implementation or violation of the provisions of EMA;
- resolve conflict related to environment among individuals, companies, NGOs and Government institutions;
- require provision of information or explanation about any matter related to environment;
- examine and inspect premises, street, vehicles, aircraft or any other place or article believed to be pollutant;
- Initiate proceedings of civil or criminal nature against any person, company, department or institution that refuses or fails to comply with any directive issued by any such committee.

The EMA designates these Committees with the status of

- City Environmental Management Committee
- Municipal Environmental Management Committee
- District Environmental Management Committee

3.3.2 The National Integrated Coastal Environment Strategy has also established a functional institutional structure for Tanzania.

To implement the National ICM Strategy, three levels of the institutional structure have been created:

- National Steering Committee on Integrated Coastal Management (NSC-ICM)
- Integrated Coastal Management Unit (ICMU)
- Intersectoral working groups

3.3.2.1 NATIONAL STEERING COMMITTEE ON INTEGRATED COASTAL MANAGEMENT (NSC-ICM)

The NSC-ICM role is to provide policy oversight and guidance on the overall vision of the ICM activities. Specific responsibilities of NSC-ICM include:

- Providing policy guidance to the ICMU on program priorities and endorse formation of Issue-Specific Working Groups
- Providing guidance to the ICMU on areas requiring SAMPs
- Providing a link between national priorities and technical delivery
- Reviewing and endorsing District ICM Action Plans
- Providing a critical link between decision-making at the centre and local goals and activities
- Reviewing and endorsing guidelines
- Facilitating the resolution of intersectoral conflicts, and conflicts between national and local entities related to ICM issues

Members of the committee consist of directors of relevant sectors and representatives from the local authorities. The NSC-ICM normally meet at least semi annually.

3.3.2.2 INTEGRATED COASTAL MANAGEMENT UNIT

Responsibilities of the Integrated Coastal Management Unit include:

- Serving as a secretariat to the NSC-ICM
- Coordinating and facilitating the implementation of the National ICM strategy
- Advising the Director General of the National Environmental Management Council (NEMC), during the formulation and review of initiatives related to integrated coastal management
- To carry out any other coastal-relevant activities as directed by Director General of NEMC

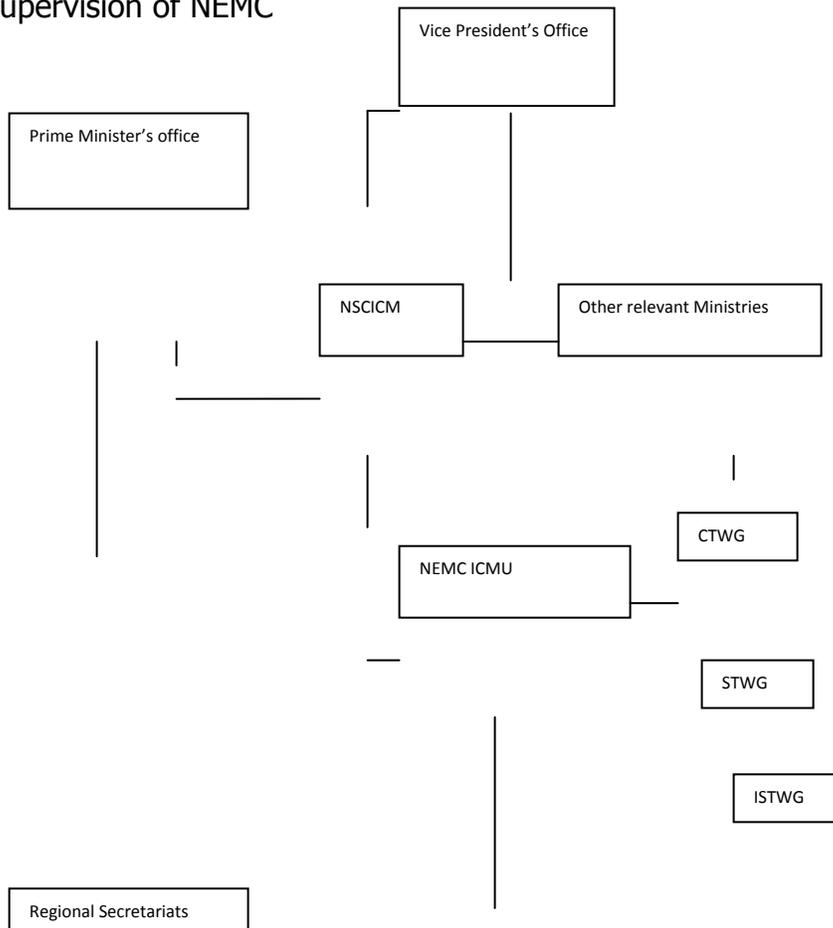
3.3.2.3 INTERSECTORAL WORKING GROUPS

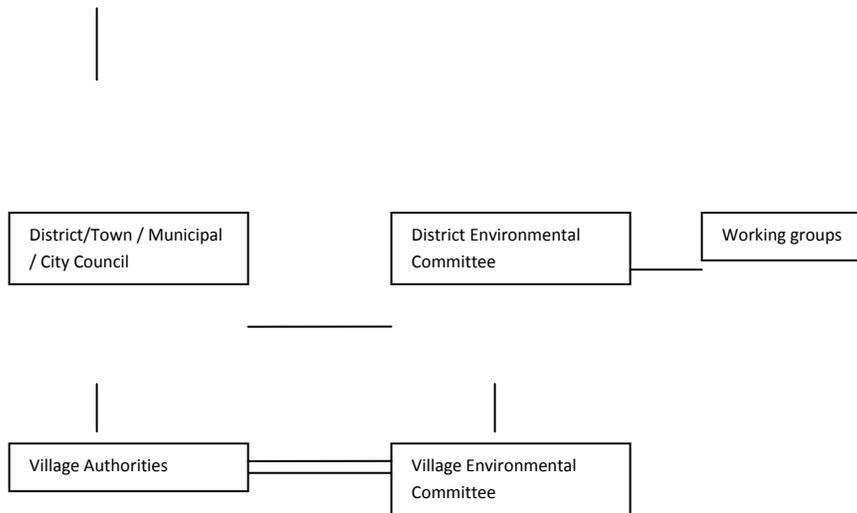
Inter-sectoral working groups are the engines for ICM. The working groups are composed of experts representing different disciplines and sectors and include representatives from the private sector and communities. Working group members are both technical experts and representatives of their sectors. These working groups are Core Technical Working Group (CTWG), Issue-Specific Working Group(s) (ISWG), and Science and Technical Working Group (STWG).

Local government have significant responsibility for carrying out the strategies therein. The responsibility of the Local government authorities include:

- Preparing and/or facilitating ICM Action Plan formulation
- Review and approval of district and local ICM Action Plans
- Implementation of Action Plans, including adoption of by-laws
- Management of local resource use conflicts
- Education and mobilization of the local community to promote ICM objectives

The Integrated Coastal Management Unit (ICMU) carries out its activities under the supervision of NEMC





3.3.3 Fisheries Sector Placement

For Fisheries Management in Tanzania, this sector from 2005 is in the Ministry of Livestock and Fisheries Development. Before 2005, the sector was under the Natural Resources and Tourism. It has been uplifted within the Government structure by appearing in the name of the Ministry whereas before 2005 this sector was only a division in a Ministry. Also it used to have one director but since 2005 it has now two directors, one responsible for Fisheries development and the other for Aquaculture Development. The organogram of the Ministry of Livestock and Fisheries Development is in appendix 1

3.3. 4 Powers of LGAs on protection and conservation of the environment:

On conservation and Protection of the environment, LGAs have powers to declare any areas to be environmentally sensitive area, to issue guidelines and prescribe measures for the protections of riverbanks, rivers lakes or lakeshores and shorelines (S.55 (1)).

In collaboration with the Council (NEMC), identify hilly or mountainous areas which are at risk from environmental degradation (S. 58) and mainstream respective parts of the National Implementation Plan (MP into their policies, legislations, plans and programs and submit annual reports to the Minister (r.f.e) on progress made in the implementation of the NIP.

3.4 Ordinary Courts of law and the Environmental Appeals Tribunal:

3.4.1 Ordinary Courts of law

Courts of law provide a platform for the citizens to enforce environmental related rights to protect human health and the environment.

S.4 of the Act gives every person living in Tanzania, a right to clean, safe and healthy environment that include right to access to the various public elements or segments of the environment for recreational, educational, health, spiritual and economic purposes (S.4 (1) & (2),

Where that above rights are threatened as a result of an act or omission likely to cause harm to human health or the environment any person may bring an action against that person whose act or omission is likely to cause harm to human health or the environment (S.5(1).

This right stems from a well founded principle of law that declares every person living in Tanzania to have a stake and a duty to safeguard the environment. (S.6).

Any person who apprehends the likelihood of harm to human health or the environment is at liberty to institute legal proceedings in a court of law against a person whose act or omission poses a threat to human health and the environment *s.5 (2); s.202)*

That is to say he may sue for an order of the court:

- a. To prevent, stop or discontinue any activity or omission that is likely to cause harm to human health or the environment, or,
- b. To compel any public officer to take measures to prevent or discontinue any act or omission that is likely to cause harm to human health or the environment, or seek an order of the court ,

- c. Requiring that any on-going activity be subjected to environmental audit or monitoring, or
- d. Requiring any person whose activity is likely to cause harm to human health or the environment to take measures to protect the environment or human health, or he may seek an order of the court,
- e. To compel the persons responsible for environmental degradation to restore the degraded environment as far as practicable to its condition immediately prior to the damage, or
- f. To compensate any victim of the harm or omission and the cost of beneficial uses lost as a result of an activity that has caused harm to human health or the environment.

It is important to note that a mere apprehension of the likelihood of harm to human health or the environment is enough to found an action. Actions may also be brought against any breaches violations or threatened breaches or violations of any provisions of EMA, OR against any use of article, or against any use of a substance or any use of natural resources (s.202)

Locus stand is given to any person. Any individual or legal person in his own interest, on behalf of a person who for practical reasons is unable to bring such action, or in the interest of or on behalf of a group or class of persons whose interest are affected, in the public interest, in the public interest or in the interest of the environment or the habitats (S.202 (a) to (e)).

Courts are also vested by powers to try the variety of criminal offenses created under the Act (SS. 184 to 190).

The courts of law play a fundamental role as far as enforcement of the Act is concerned. In appropriate cases, it has ultimate powers to order forfeiture to the Government of the substances, equipment and appliances used in the commission of the offence (s.193 (1) upon conviction or upon being satisfied that an offence was committed notwithstanding that no person was convicted.

The court can also order the accused to pay for the costs of disposing of the equipment, appliances and substances or that any licenses, permits or any authorizations issued under the Act to which the offences relates be cancelled or order him to do community works that promotes the environment. In appropriate cases the court may issue an environment restoration order or in an action brought by the Council under S.110 (8) issue an order for the disposal of production, storage, transporting facility, motor vehicle or vessel.

3.4.2 The High Court of Tanzania (S.209)

The High Court of Tanzania exercises appellate jurisdiction over decisions or orders of the Tribunal on points of law (s.209). Thus, any party aggrieved by the decision or order of the Tribunal on a point of law may appeal to the High Court within 30 days of such decision or order. Appeals to this court are heard and determined by a panel of three judges and the decision thereof is final.

3.4.3 The Environmental Appeals Tribunal

The Tribunal is established under s.204 of the Act composed of the Chairman (Presidential appointee), Advocate recommended by the TLS (Ministerial appointee), one person highly experienced in environmental law (Ma), two persons with exemplary professional competence in the field of environmental management.

In cases where a person served with an order of NEMC defaults to comply, the Council may for purposes of bringing about compliance with its directives apart from other measures bring action in the TRIBUNAL to enforce compliance with its directives.

The Tribunal also exercises appellate jurisdiction over the decisions or omissions of the Minister, or against the imposition of or a failure by the Minister to impose any condition limitation, or restriction issued under the Act or its Regulations or against the decision of the Minister to approving or disapproving an EIS of a project.

3.5 The civil society, private sector, research/education institutions, CBOs and NGOs.

The UNEP Manual specifically outlines roles of civil societies to include facilitation of responsibilities and processes for the participation of the appropriate community and non-governmental organizations in processes contributing to the protection of the environment; and informing legislative, executive and other public bodies of the environmental actions taken and results achieved. The Act implements this duty by providing for representation from civil societies organizations and private sector institutions in the National Environmental Advisory Council.

S.4 of the Act gives every person living in Tanzania, a right to clean, safe and healthy environment that include right to access to the various public elements or segments of the environment for recreational, educational, health, spiritual and economic purposes (S.4 (1) & (2)). In fact the law declares every person living in Tanzania to have a stake and a duty to safeguard the environment and to inform the relevant authority of any activity and phenomenon that may affect the environment significantly.

Any person who apprehends the likelihood of harm to human health or the environment is at liberty to institute legal proceedings in a court of law against a person whose act or omission poses a threat to human health and the environment *s.5 (2); s.202*).

Locus stand is given to any person. That is to say any individual or legal person in his own interest, on behalf of a person who for practical reasons is unable to bring such action, or in the interest of or on behalf of a group or class of persons whose interest are affected, in the public interest, in the public interest or in the interest of the environment or the habitats (S.202 (a) to (e)).

The Manual on Compliance and Enforcement of Multilateral Environmental Agreements defines the role of coordination by the government agencies with non-governmental organizations and the private sector. It is affirmed that, just as NGOs and the private sector can improve a States record in environmental compliance when they are given access to environmental information, so coordination between government bodies and these entities can also strength enforcement. It is acknowledged that in many states, NGOs serve as unofficial (watchdogs) and their resources and dedication can support official enforcement efforts. It is also recognized that the private sector can do a better job of self policing and governing their own compliance if the government approaches compliance matters with them in a coordinated and cooperative fashion.

To facilitate public participation which is given priority by the Rio MEAs the Environmental Management Act, 2004 guarantees every citizen to have freedom of access to publicly held information relating to the Implementation of the Act and provided for public participation in environmental decision making.

Exceptions to this right are provided as to includes, information that relates to the unfinished document, public order or national security and protection of trade or industrial secrets.

Nongovernmental organizations (NGOs) and groups such as trade unions or manufacturers associations are organized means of public participation in environmental decision-making like individuals members of the public NGOs may compile data seek to influence legislation intervene decisions on licensing or permitting projects and monitor compliance with environmental laws. With these roles and because of their greater means expertise and organized efforts, NGOs often can more effectively assert public rights of information and participation. The importance of NGOs is reflected in the emphasis on their role in recent treaties such as the Desertification Convention which speaks in its preamble of the (the special

role of Nongovernmental organizations and other major groups in programmer to combat desertification and mitigate the effects of drought)

In Tanzania the Environmental Management Act, 2004 provides for the National Environmental Council to have the duty to exchange information relating to environment with Non Governmental Organizations, among others. The Act also provides for the public to have the right to participate in and being informed of the intention to make executive or legislative decisions affecting environment. In recognition of the positive role of the civil society and the private sector as a means to guarantee public participation the Act provides for their membership in the National Environmental Advisory Committee.

3.6 Legal and institutional framework for international and trans-boundary cooperation

The Environmental Management Act in Part XV provides for legal and institutional framework for international and trans-boundary cooperation. For instance where the URT becomes a party to an international or regional agreement concerning the management of the environment, the Minister shall initiate and prepare legislative proposals for consideration by the relevant ministry for purposes of implementing those agreements, and identify appropriate measures necessary for implementation of those agreements.

Where a sector ministry engaged in the negotiation of an international agreement, on matters relating to the protection and management of the environment, that sector ministry shall prior to submission the agreement to the National Assembly for ratification, communicate to the minister responsible for environment on the substance of the agreement with the view to assess the likely impact to the environment.

The Act directs the Minister to create a mechanism to work closely with international and regional communities to contribute towards a peaceful, healthier, and better global environment for the present and future generation.

The Director of Environment is directed to keep the register of all international agreements to which the URT is a party.

On trans-boundary issues , the Minister upon consultation with other relevant ministries initiate discussions with relevant authorities of neighboring countries on environmental management programs and measures to avoid and minimize such trans-boundary from other environmental effects.

The Director of Environment is required in cooperation with sector ministries and government agencies initiate and implement environmental management programs with neighboring countries. He is required also to establish a national office or national focal point for the implementation of international agreements on environment.

4.0 GAP ANALYSIS

4.1 Analysis of gaps in policies

Review of the policies points to a conclusion that policies touching coastal and marine areas are exhaustive. Policies in Tanzania are instruments that guide the government in making decisions. They are implemented by legislations that are enacted after formulation of policies. This fact is amplified in several laws examined in this report. For instance the Environmental Management Act, 2004, the Water Resources Management Act 2009, the Water Supply and Sanitation Act 2009 just to mention a few. The trend in Tanzania is to enact laws to enforce formulated policies.

However, we have noted that it takes a considerable time to enact laws to enforce policies. For instance, it took seven years to enact the Environmental Management Act, 2004 since the National Environmental Policy was formulated in the year 1997 and the same period for the Water Resources Management Act 2009, the Water Supply and Sanitation Act 2009 since the formulation of the National Water Policy in 2002. Some policies need to be amended to keep pace with the fast changing circumstance of the Tanzanian society.

4.2 Analysis of gaps in legislation

This survey has extensively reviewed the legal framework that exists in Tanzania regarding the coastal and marine resources and environment governance. It is noted that there are a number of legislation in place that need to be understood, some to be harmonized and enforced. In the recent years Tanzania has strived to put in place comprehensive laws in the field of environment. Each law for instance provide for a mechanism or machinery to enforce it by establishing various national institutions. The gaps that existed in laws in the past decade are addressed in the current laws. Old laws are repealed and replaced by new laws that provide for comprehensive legal and institutional framework to adequately address existing and emerging environmental management issues. Tanzania is still in the process of implementing its legal sector reform program where outdated laws are repealed and replaced to match with the contemporary circumstances.

It is also noted however that, most if not all laws enacted recently confer enormous powers on Ministers to make guidelines and regulations to give effect to the provisions of the laws. The Environmental Management Act can be cited to serve as an example. The Act confers enormous powers over the Ministers to make guidelines and regulations to give effect to the provisions of the Act. The Act came into operation on the first day of July 2005. Since then very few regulations and guidelines have been made by the Minister. Quite a good number of the provisions of the Act are idle waiting for either guidelines or regulations.

Another obvious challenge is the conflict of laws. The Environmental Management Act again can serve as an example. The Act was enacted as an umbrella/framework law with overriding provisions over other written laws. Where any provision of a sector law that is inconsistent with the provisions of the Environmental Management Act the provisions of the later shall prevail. Consequential amendments were not made to bring the provisions of the sector laws in conformity with the provisions of the Environmental Management Act. The co-existence of these laws has always posed a problem in their implementation. Sector laws are implemented in disregard of the overriding provisions of the Environmental Management Act.

4.3 Analysis of gaps in institutional framework

This report has discussed more than twenty legislations. Each legislation establishes a network of institutions to enforce it. Institutions established under one legislation may not be inadequate to undertake effectively the enforcement of that particular legislation due to lack of financial and technical resources and the vastness of the country may render it impossible for an institution to reach all areas. But environmental issues are crosscutting and environmental laws complement each other. It is a common phenomenon in Tanzania to find one component of the environment be it water, air, waste being a subject of enforcement by more than institution under different legislation.

In view of the legislations examined in this report, the institutional framework is adequately provided for.

However, this survey has revealed that to-date some of the institutions established by the laws examined in this report are not yet in place the reason being lack of funds. For instance the Environmental Appeals Tribunal despite its overwhelming importance in the enforcement of the provisions of EMA it is not yet in place for five years now since EMA became operational in July 2005.

Despite that some of the institutions are already in place their enforcement role is seriously curtailed by lack of ministerial guidelines or regulations. They receive

inadequate funds from the Government resulting into inadequate enforcement. The National Environment Management Council for instance receive inadequate budget from the Government as a result monitoring of projects, conducting awareness programs etc are not done. They are also understaffed and lack adequate working tools.

4.4 General Gap analysis and needs

a) Weak institutional cooperation, collaboration and exchange of information

Effective and multi-sectoral enforcement of the existing and relatively many sectoral legislation and regulations is a mounting challenge with a view to specifically improve environmental management of the costal and marine environment. The general tendency has been for each sector to work within its mandate without much attention to possible implications and interactions with other related sectors. A good example is that of the Fair Trade Commission that recently condemned fake imported goods including fluorescent tube lights and television sets and ultimately destroyed them and disposed of in an uncontrolled dumpsite. A point worth noting is that the Commission exercised its mandate without due regard to potential environmental implications of the disposal method used particularly taking into of the heavy metal contents that could possibly be found in these items. This is just one example of the many cases in which weak institutional collaboration and cooperation seem to contribute to negative environmental consequences.

b) Insufficient capacity of Regulatory Authorities

Weak enforcement of most of the existing legislation and regulations is a main challenge to most institutions. Therefore, strengthening the capacity of the environment regulatory authorities particularly LGAs should be one of the priorities. Priority actions on strengthening institutional capacity may include the following:

- i) Embark on an extensive awareness campaign of relevant existing legislation particularly EMA, 2004 for all stakeholders
- ii) Build capacity of institutions through various means including Training of Trainers, workshops, seminars, etc
- iii) Ensure that the implementing institutions have adequate resources to execute their roles effectively

- iv) Facilitate each institution to formulate strategies and action plans to implement their roles.
- v) Establish Environmental Data and Information Systems and Monitoring tools to enable all actors to access and utilize reliable information for environmental planning and management.
- vi) Promote public-private sector partnership
- vii) Implement EMA Implementation Support Program
- viii) Strengthen environmental management system through partnership between various actors.
- ix) Operationalize guidelines for mainstreaming environment into sectors and local government plans and budgets.

c) Lack of involvement of Financial Institutions in promoting environmental compliance

Financial institutions are key players and stakeholders in the process of economic development and are expected to, and indeed must, play a critical and pivotal role in the promotion of compliance with environmental laws and regulations. The Financial Institutions should have the responsibility for promoting compliance, a responsibility which should be essentially perceived as participation in risk management. The reasons may be summarized as follows:

- i) Balance sheet factors: a project may run into problems as consequence of environmental liabilities. This may have a negative impact on borrower's cash flows which may result in delayed payments or write-offs of interest and principal. Such a situation may ultimately have negative impact on the Institutional asset quality and earnings (profitability).
- ii) Ensuring continued existence of systemic stability in the overall financial system i.e. protection of the "goose that lays the golden egg"

Therefore, financial institutions should take into account the environmental issues on the same yardstick as the financial viability issues. It is suggested that financial institutions can assist in improving adherence to the laws by providing incentives to good corporate environmental performers. For instance, financial institutions could provide preferential interest rates for companies/institutions which adopt cleaner production.

d) Limited capacity of businesses complying with changing laws and standards

Often when the law changes, it imposes mandatory conditions which, if it were to be complied with, many businesses would close. Therefore, there is need to establish transitional stages to adapt new laws, regulations and environmental standards when such changes occur. It may be necessary for the private sector to enter into agreement with the Government on how the changes would be met.

4.4.1 Future perspectives and trends

In view of the gaps and constraints cited earlier, it is considered that in order to improve institutional capacity and effectiveness in environmental management there is need to:

- facilitate financial resource sharing;
- restructuring and introducing departments/units in Local Governments responsible for environmental management,
- promote participatory planning;
- create partnership in awareness raising on environmental issues;
- strengthen civil society including industrial associations, farmers associations etc

5:0 PROCESSES FOR RATIFICATION AND IMPLEMENTAION OF INTERNATIONAL CONVENTIONS

Tanzania is one of the dualist countries, in the sense that it regards the international legal system and the municipal or domestic legal system as separate and parallel systems. Unlike other countries, Tanzania, international conventions, agreements or treaties including regional ones do not apply automatically. The procedure is that they must first be ratified by the Parliament of the United Republic of Tanzania and a law must be enacted to enforce or give effect to the convention. By necessary implication one cannot go to court in Tanzania to enforce an international agreement unless there is a corresponding law enacted to give effect to the agreement. Where a law has been enacted to enforce the international agreement, the later will assist in interpreting the law.

Examples of could be cited of the Territorial See and the Exclusive Economic Zone Act, 1989 which was enacted to enforce the United Nations Convention on the Law of the Sea, The Treaty for the Establishment of the East Africa Community Act 2001 which was enacted to enforce the Treaty for the Establishment of the East Africa

Community 1999, the Environmental Management Act Cap 191 which was enacted to enforce MEAs.

Tanzania has made appreciable efforts to implement the conventions to which she is a contracting party. Such efforts include the improvement of the legislative framework for environmental management; the mainstreaming of MEAs into national development strategies and plans; In the year 2004, the Environmental Management Act designated the office of the Director of Environment as the national Focal Point for the implementation of International Agreements on environment. DoE advises the Government on the implementation of the relevant international and regional agreements in the field of environment and on international environmental agreements to which Tanzania should be a member or withdraw its membership. Through a register is the custodian of all the International Agreements concerning the management of the environment to which the URT is a Party.

The legislative framework for environmental management has been improved to provide for broad participation of stakeholders and for their enhanced coordination, paving way for improved environmental management. The Environmental Management Act (Cap 191) of 2004 provides for broad participation of all stakeholders at all levels of government from Local Government Authorities to sector ministries. A number of regulations have been promulgated to facilitate coordination, sound environmental planning and the implementation of the Act. Such regulations include EIA Regulations of 2006.

Other important steps towards implementation of relevant conventions include the formulation of Guidelines for Mainstreaming Environment into Sector and Local Government Authorities' Plans and Budgets in 2008, under the Office of the Vice President, Tanzania's participation to the COPs, and remittances of its contributions to the various secretariats of the conventions.

As indicated in Table 1, the ratification of the Conventions by Tanzania is rather high. This indicates a general acceptance of international trends, and the high priority accorded to environmental management by the national leadership. This commitment is well established by the National Environmental Policy 1997 which emphasizes the need for global, regional and national efforts towards ratification and implementation of international environmental treaties and agreements (*NEMC 2009*).

Among the factors that have influenced Tanzania's decision to ratify respective MEAs are the national environmental challenges facing the country, as well as the state of institutional and legislative development. For instance, the presence of more than 1,000 tons of obsolete pesticides poorly stored across the country since 1990's contributed to the ratification of the Basel, Rotterdam and Stockholm Conventions. Further, the increased awareness of the importance of civil liability in

the context of transboundary environmental risks of Genetically Modified organisms (GMOs) led to Tanzania to ratify the Cartagena Protocol on Biosafety (*NEM 2009*).

The ratification of the various conventions reflects the commitment of Tanzania to the implementation of the conventions. However, during the national ratification process, there is inadequate focus on assessment of financial implications of such ratification and projections in resource requirements in order for the country to meet specific obligations under the convention. The lack of financial commitment right from the national ratification process of MEAs does contribute to difficulties in their implementation due to many competing development needs in relation to the meager resources available (NEMC 2009).

6.0 CONCLUSION AND RECOMMENDATIONS

According to the survey conducted, this report concludes that Tanzania has quite a number of laws which provide for legal and institutional frameworks that adequately address Coastal and Marine resources and Environment. Although financial and human resources have constrained them from operating in their full capacity, yet they are good in number and complement each other. In the long run they will be allocated sufficient funds to enable them to improve their enforcement operations. Tanzania is still in the process of implementing reforms in its legal sector. Old and outdated laws are repealed and replaced by new ones. The current trend in the enactment of new laws indicate a great likelihood that there will be a very strong enforcement machinery in the long run.

6.1 Recommendations

It is therefore recommend that:

1. The Government of Tanzania and other Conservation partners to increase budget support and allocations to responsible institutions in order to improve the enforcement capacity.
2. Guidelines and Regulations which are not yet enacted should be enacted to give effect to those provisions of laws.
3. Awareness programs should be conducted with a view of changing the people attitude to achieve voluntary compliance,

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8:0 APPENDICES

Table 1: Overview of Status of Relevant Conventions Signed or Ratified by Tanzania

Name of Convention	Year and Date Signed	Year and date of Ratification/accession
African Nature 1968/2003	15.09.1968	07.09.1974
1989 Basel	Not signed	07.04.1993 (accession)
1991 Bamako	26.11.1991	15.02.1993
1992 CBD	12.06.1992	08.03.1996
1972 London	N/A	N/A
1973/78 MARPOL	N/A	N/A
1985 Nairobi	22.06.1985	01.03.1996
1998 PIC	11.09.1998	26.08.2002
2001 POPs	23.05.2001	30.04.2004
1994 UNCCD	14.10.1994	12.06.1997
1982 UNCLOS	1982	30.09.1985
1992 UNFCCC	12.06.1992	17.04.1996
1997 Watercourses	N/A	N/A

Table 2: Summary of Relevant Legislation to Coastal and Marine Resources and Environment governance in Tanzania

Year		Title of decree/law
		National Parks Act
2002		Hotels Act
2003		Merchant Shipping Act
2008		Tourist Act
2007		Land-use Planning Commission Act
2009		Wildlife Conservation Act
2002		Marine Parks and Reserves Act
2007		Urban Planning Act
2002		Plant Protection Act
1997		Tanzania Forestry Research Institute Act
2002	-	Range Development and Management Act
1998		Mining (Environmental Management and Protection) Regulations
2002		National Industries Licensing and Regulations) Act
1999		National land-use Planning Commission Act

1999		Village Lands Act
2003		Fisheries Act
2004		Environmental Management Act

Appendix 1: THE ORGANISATION STRUCTURE OF THE MINISTRY OF LIVESTOCK AND FISHERIES DEVELOPMENT

(Approved by the President 2011)

