



### **Participants and Secretariat Staff at the Meeting**

**Front Row, Left to Right:** Sardia Cenac (Commonwealth Secretariat), Gabisile Mabuza (Swaziland), Sylvia Bankobeza (UNEP), Lungile Magagula-Gumbi (Swaziland), Motlalepula Segopolo (Botswana), the Hon Rama Valayden (Attorney General & Minister for Justice, Mauritius), Farzana Jumaye (Seychelles), Nisha Devi Manic (Mauritius), Carole Green Jokhoo (Mauritius), Anita Kawol (Mauritius), Rebecca Loustau-Lalanne (Seychelles), Ter Kim Cheu (Singapore), Poornimah Devi Sookun (Mauritius)

**Second Row, Left to Right:** Dr Sandra Wint (Consultant), Saikou Njai (The Gambia), Cheryl Thompson-Barrow (Commonwealth Secretariat), Dr Henry Carrol (The Gambia), Manikchand Puttoo (Mauritius), Tsebang Putsoane (Lesotho), Teofilus Nghitila (Namibia), Chris Nghaamwa (Namibia), David Aniku (Botswana), Stanley Damane (Lesotho), Douveri Henao (Papua New Guinea)



**COMMONWEALTH SEMINAR ON THE IMPLEMENTATION OF INTERNATIONAL  
ENVIRONMENTAL INSTRUMENTS AND POLICY DEVELOPMENT.**



**GRAND-BAIE MAURITIUS  
31 OCTOBER - 6 NOVEMBER 2005**

**Study Tour, Il aux Aigrettes**

**Commonwealth Seminar for the  
African Region on the  
Implementation of International  
Environment Instruments and  
Policy Development**

**Grand Baie, Mauritius  
31 October – 6 November 2005**

**REPORT**

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## **INTRODUCTION**

The Law Development Section of the Legal and Constitutional Affairs Division (**LDS-LCAD**) held its first regional environmental law meeting in Mauritius on 31 October – 6 November, 2005. This seminar for the African region sought to give effect to the 2004 mandate of Law Ministers of Small Commonwealth Jurisdictions (LMSCJ) who called upon the Secretariat to provide legal and technical assistance to small states in the implementation of environmental conventions, and to take forward the recommendations of the core group of experts who met in the Maldives in February 2005.

The objective of the Seminar was to promote the implementation of international environmental conventions at the national level by identifying the gaps in member countries' existing legislative/regulatory arrangements, and accordingly, encouraging the development of comprehensive environmental law. **(Annex 1 for Agenda)**

The meeting was attended by both legal and environment officers to ensure that there was a sound understanding of the operative policy and legal frameworks within small states of the African region. Resource persons from Asia, the Caribbean and the Pacific were invited so as to encourage the exchange of information and experience, in keeping with the recommendations of the core group in the Maldives. The countries represented were Botswana, Lesotho, The Gambia, Jamaica (the Caribbean), Mauritius, Namibia, Papua New Guinea (the Pacific), Seychelles, Singapore (Asia) and Swaziland. A representative of UNEP was also present. **(Annex 2 for List of Participants)**

The Seminar was opened by the Attorney General and Minister for Justice of Mauritius, the Hon. Rama Valayden, who highlighted the significance of taking proactive measures to protect the environment and gave the example of Mauritius meeting its chlorofluorocarbon (CFC) reduction targets under the Montreal Protocol in advance of its target date. This observation provided a practical illustration of the relevance of international environmental initiatives and the role of developing countries in meeting global targets. The Minister further emphasised the importance of regional cooperation among African countries. **(Annex 3 for Opening Remarks)**

# METHODOLOGY

## 1. CONDUCT OF THE SEMINAR

### 1.1 EXAMINATION OF COUNTRY AND REGIONAL REPORTS

Participants were given the opportunity to present Country Reports. These Reports gave an overview of the Conventions and Protocols which had been signed or ratified; the national legislation which gave effect to these instruments either in whole or in part where applicable; and the various programmes and activities undertaken pursuant to this legislative framework. Participants reported on the various challenges being faced and on the need to update and consolidate environment legislation. **(Annex 4 for Country Reports)**

Regional resource persons from Asia, the Caribbean and the Pacific presented reports to the meeting. These presentations sought to give an overview of the regional and national environmental policy and law developments in the respective regions, and to stimulate discussions on best practice in law and policy-making. **(Annex 5 for Regional Reports)**

The Environment Officer for UNEP presented a paper to the meeting on the implementation of multilateral environment conventions. **(Annex 6 for UNEP Report)**

### 1.2 PRESENTATIONS BY THE COMMONWEALTH SECRETARIAT

**LDS** sought through a series of presentations, to highlight the obligations of African small states under the key environmental conventions and to give guidance as to the implementing legislation required. **(Annex 7 for Commonwealth Secretariat Presentations)**

As at the Maldives meeting, to ensure that there was a proper appreciation of the science which underpins environmental conventions and of the practical significance of seeking an integrated approach to environmental

management, Consultant Dr. Sandra Wint was required to make four Scientific Presentations.

The first presentation – ***A Scientific Overview – (Annex 7.1)*** provided an introduction to the Earth and highlighted the distinction between natural and manmade phenomena. The cyclical behaviour of many global processes was explained to illustrate the interconnectedness of the different components of the environment and the effect of disruptions to the various cycles on the general wellbeing of the Earth. Major ecosystems such as the marine or tropical forests were noted and having developed over millennia, providing the raw materials on which humankind depend for its well-being. The need for managed systems that clearly establish the responsibilities of countries over their resources while taking into consideration economic development goals was explained.

The second presentation – ***A Scientific Overview of the African Region – (Annex 7.2)*** focused on the Southern African Region and aimed at providing detailed descriptions of the physical characteristics that contribute to the definition of the types of ecosystems that exist in the participating countries. The wide variation in physical characteristics and relevant hazards such as drought, overgrazing, increased urbanisation and sea level rise were the key issues highlighted.

In the third presentation - ***Important Ecosystems/Species and Traditional communities; Stewardship/Exploitation of resources; Implications for Protection of Traditional knowledge – (Annex 7.3)*** the major ecosystems that exist in the region were presented, with an emphasis on the need to recognise that these systems occur, in many instances, across political boundaries. The status of biodiversity including endangered species, the effects of invasive species and the economic importance of some components of the environment provided the main discussion points.

In the last presentation – ***The Effect of Implementation of Environment Agreements on the Well-being of the Environment and their Contribution to the Notion of Sustainable Development – (Annex 7.4)*** an analysis of the effect of some environmental agreements was undertaken. One highlight was the positive effect of the Montreal Protocol on the global emissions of CFCs aimed at the rectifying the ozone hole phenomenon in the South Pole. Also discussed were the effects on countries and their national institutional environmental frameworks in particular brought about by their participation in the implementation of these agreements. Some positive gains identified were capacity building initiatives, development of national action plans, relevant legislation and regulations, and financial assistance to implement programmes.

Ms. Cheryl Thompson-Barrow's first presentation – *An Overview of Major Environmental Conventions* – (Annex 7.5) highlighted the obligations of state parties to the 1973 Convention on International Trade in Endangered Species, 1992 Convention on Biological Diversity, 1992 Framework Convention on Climate Change, 1994 Convention to Combat Desertification, 1982 United Nations Convention on the Law of the Sea and the 1973/78 Convention for the Prevention of Marine Pollution from Ships (MARPOL). The need to develop comprehensive environmental law and policy was noted, as too the importance of developing regional and sub-regional arrangements.

Ms. Thompson-Barrow's second presentation – *An Analysis of Cross-cutting Thematic Areas of Major Environmental Conventions* – (Annex 7.6) sought to identify the main cross-cutting themes of the environmental conventions under discussion, and to thereby identify the areas to be legislated in developing comprehensive environmental law. The need to elaborate regional and bilateral treaties of co-operation was also mooted.

Ms. Sardia Cenac's presentations (Annex 7.7) sought to identify the gaps in the existing legislative framework of each small state of the African region *vis à vis* the thematic areas as identified in the presentations by Ms Thompson-Barrow. It was noted that states in seeking to fill the lacunas in the law may enact either a single comprehensive/framework environmental law, or develop comprehensive sectoral laws with an effective co-ordinating mechanism.

The meeting discussed the *Saint Christopher and Nevis National Conservation and Environmental Management bill 2005* as an example of a comprehensive environmental law seeking to give effect to several environmental law instruments.

All sessions were accompanied by open discussions which afforded participants the opportunity to explore issues that were of particular interest. The participation of representatives of the national environmental agencies and environmental law specialists enriched the discussions. The discussions also brought to the fore some of the problems countries face in seeking to implement some of these agreements. Examples were given by participants of how their countries are working with limited resources to meet the obligations of these instruments. It was noted that states had sought to implement relevant provisions through appropriate programmes, plans, activities and policies, but that the relevant enabling legislative framework was inadequate. The meeting underscored the value of these activities etc. in promoting sustainable development, but emphasised the importance of

developing a suite of environmental laws and regulations which could be effectively enforced.

### **1.3 PRESENTATION OF WORKING GROUP REPORTS**

Participants were divided into three sub-regional groupings:

- *Landlocked States* (Swaziland and Lesotho);
- *Coastal/Island States* (The Gambia, Mauritius and Seychelles); and
- *Desertification States* (Botswana and Namibia).

Each group was required to:

- assess their national and sub-regional environmental needs and indicators along with their international obligations and provide a comprehensive policy to satisfy these imperatives; and
- outline the thematic provisions which would be embodied in a legislative framework to represent their policy positions and enable their international responsibilities under the various treaties.

**(Annex 8 for Working Group Reports)**

### **1.4 STUDY TOUR**

The study tour of Ile aux Aigrette, a nature reserve island, provided an excellent practical demonstration of the effects of invasive species, overexploitation of flora and fauna and the positive effects that sensitive remedial activities can bring about in restoring ecological balance. It is also representative of partnership between government and civil society in addressing an environmental issue with national implications.

## **2. DETERMINATION OF OUTCOMES OF THE SEMINAR**

The recommendations received and the feedback given during the course of the Seminar, and particularly that outlined in the Working Group Reports will be assimilated to assist **LDS-LCAD** in developing comprehensive model environmental law(s) for small states of the Commonwealth.

## RECOMMENDATIONS AND CONCLUSIONS

Working Groups produced comprehensive Reports which highlighted the national and sub-regional environmental needs, issues and problems of small states of Africa, and sought to develop an appropriate overarching policy and law framework for environmental management which addresses those concerns. **(Annex 8 for Working Group Reports)**

In terms of policy development, the meeting noted in particular the need to honour international and regional obligations, and suggested that it was generally desirable to first enact relevant domestic legislation before ratifying or acceding to conventions. The meeting considered the setting up of an inter-ministerial committee to monitor compliance with international obligations.

More specific proposals were made in relation to the establishment of a co-ordinating institution for environmental management, the development of appropriate institutions for technology transfer and research development, the sustainable management of waste, rangelands and natural resources/biodiversity, the development of sustainable tourism codes, the provision of incentives to industries and society to encourage development which is environmentally sound and socially sustainable and the promotion of public participation in decision-making on environmental issues. The meeting noted the importance of regional co-operation, particularly with reference to capacity building, technology transfer, recycling of waste, and the establishment of early warning systems for drought and other natural disasters.

The meeting made detailed recommendations with respect to the development of appropriate legislation. Comprehensive proposals were made regarding the control of pollution and the management of wastes, including the development of waste minimization strategies and the promotion of cleaner technologies; water resources management; the establishment of an environmental vulnerability index; the creation of a financial mechanism (an environment trust fund); the development of biosafety legislation, and on encouraging the protection of traditional knowledge through regulations which require the setting up of a register and the taking of inventories. It was noted that the protection of traditional knowledge and skills may be

incorporated into intellectual property legislation, with the necessary cross-reference in environment legislation.

**LDS-LCAD** encouraged participants to keep the Division informed of environmental law developments in their respective countries as it seeks to develop model environment laws.