INECE - UNEP INDICATORS PROJECT
PHASE 1

COUNTRY REPORT: SOUTH AFRICA

30 APRIL 2006

1 INTRODUCTION

1.1 Objectives of the INECE-UNEP Indicators Project

The International Network for Environmental Compliance and Enforcement (INECE), in partnership with the United Nations Environment Programme (UNEP), developed pilot projects to identify opportunities to create efficiencies in the implementation of biodiversity-related multilateral environmental agreements (MEAs). Through the identification, design, and use of environmental compliance and enforcement indicators, the parties sought to recognize potential synergies among activities designed to ensure compliance with MEA obligations and to enable countries to more effectively and efficiently implement MEA requirements.

The relevant MEAs included the Ramsar Convention on Wetlands, the Convention on Biological Diversity (CBD), the Convention on the Conservation of Migratory Species (CMS), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), as well as the Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (the Lusaka Agreement) when applicable. The initial pilot project countries were Brazil, Costa Rica, Kenya, and South Africa.

1.2 Focus of the Project in South Africa

INECE and UNEP centered the South Africa project in Limpopo Province. At a meeting of environmental compliance and enforcement officials in Limpopo Province, it was agreed that the focus of the project would be on **compliance with permits required under the Limpopo Environmental Management Act (LEMA)**, which generally relate to utilization of natural resources. Meeting participants identified as one of their key biodiversity challenges the fact that many permits issued receive no follow-up to determine if permit conditions were met.

This issue affects the implementation of obligations from all the biodiversity-related MEAs to which South Africa is a party.

1.3 Project Methodology in South Africa

The INECE-UNEP indicator project in South Africa began with communications with officials in the national Department of Environmental Affairs and Tourism (DEAT) and in the Limpopo Department of Economic Development, Environment and Tourism (LEDET). It was decided that the project should focus on Limpopo Province, so as to follow up on the participation in the 7th INECE Conference by Dr. Moshibudi Rampedi, a General Manager in LEDET, as well as to follow up on her article in the Conference Proceedings describing "Experiences in Environmental Compliance and Enforcement in Limpopo Province, South Africa" (http://www.inece.org/conference/7/vol1/35_Rampedi.pdf). The Secretariat developed a series of questions to guide discussions of the project in South Africa.

The INECE Secretariat undertook a 10-day visit to South Africa to meet with various stakeholders and experts in Cape Town, Pretoria, and Polokwane. The central meeting during that visit was a full-day session in Polokwane with representatives of various key departments in LEDET (Regulatory Enforcement, Biodiversity Monitoring, Environmental Impact Assessments, Protected Areas, and CITES & Permit Management), moderated by the Secretariat. The Secretariat provided a brief introduction to the project, heard presentations from all participants on what their jobs involve, and then led a focused discussion to develop a project topic that was both an area of concern for Limpopo and that fit within the confines of the project scope. As noted above, the topic selected was compliance with permits required under LEMA. Once the project focus was determined, participants brainstormed an initial set of input and output indicators for the topic.

Dr. Rampedi designated a project coordinator to work with the Secretariat to develop and complete Phase I of the project. Over the next few months, through e-mail and telephone communications, the project coordinator and the Secretariat refined and revised the initial set of

indicators, assessed the existing data-collection structure in Limpopo, and planned for the full implementation of the indicators. The indicators and implementation plan were then tested through the expert stakeholder review committees, after which the final report on Phase I of the project was prepared.

1.4 In-Country Coordinator & Review Committees

The Project Coordinator in Limpopo Province, South Africa was Deon Von Wielligh (Deon@ledet.gov.za) in the CITES & Permit Management Directorate of LEDET.

The Limpopo Province review committee for the project included:

- Dr. Moshibudi Rampedi, General Manager, Regulatory and Environmental Impact Management, RampediMP@ledet.gov.za
- Phillip Monyepao, Senior Manager, Regulatory Enforcement, MonyepaoP@ledet.gov.za
- Tsunduka Hatlane, Deputy Manager, Environmental Impact Assessments, HatlaneTN@ledet.gov.za
- Antoaneta Letsoalo, Manager, Biodiversity Monitoring, LetsoaloAL@ledet.gov.za
- DEN Mabogo, Senior Manager, Biodiversity, MabogoDE@ledet.gov.za
- S.P. ("Fanie") Coetzec, Senior Environmental Compliance Officer, CoetzecSP@ledet.gov.za
- Vincent T. Egan, Principal Nature Conservation Scientist, Biodiversity, EganVT@finptb.norprov.gov.za
- Johan Kruger, Manager, Protected Areas, KrugerJW@ledet.gov.za
- Riaan de Jager, Manager, Regulatory Enforcement, DeJagerR@ledet.gov.za
- Sam Makhubele, Senior Manager, CITES & Permit Management, MakhubeleS@finptb.norprov.gov.za

The in-country review committee for the project included:

- Dr. Pieter Botha, Deputy Director, Policy Development, Biodiversity & Heritage, DEAT, Pbotha@deat.gov.za
- Sonja Meintjes, Assistant Director, Regulation and Monitoring Services, DEAT, Smeintjes@deat.gov.za
- Markus Burgener, TRAFFIC, Burgener@sanbi.org
- Dr. John Donaldson, SANBI, Donaldson@sanbi.org
- Prof. Jan Glazewski, University of Cape Town, glaz@law.uct.ac.za
- Helen Dagut, IFAW, hdagut@ifaw.org

2 TREATIES, LAWS, ACTORS, & ACTIVITIES RELATED TO THE PROJECT FOCUS

2.1 Relevant Treaties

South Africa has ratified or acceded to the following biodiversity-related conventions:

- The Convention on Wetlands (Ramsar, Iran, 1971), signed in 1971, ratified in 1975;
- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), signed and ratified in 1975;
- The Convention on Biological Diversity (CBD), signed in 1993, ratified in 1995; and
- The Convention on the Conservation of Migratory Species (CMS), acceded to in 1991.

2.2 Relevant Laws & Regulations

The principal law of relevance to this project is the Limpopo Environmental Management Act (LEMA), Act 7 of 2003, which repealed the former Lebowa, Gazankulu, Venda, and Transvaal Acts and Ordinances (geographic areas and homelands that now form Limpopo).

The objectives of LEMA are to: manage and protect the environment in the Province, to secure ecologically sustainable development and responsible use of natural resources in the Province, to contribute to the progressive realization of the fundamental rights contained in Section 24 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and to give effect to international agreements effecting environmental management which are binding on the Province.

Limpopo Province interprets and applies LEMA in accordance with the National Environmental Management Act principles, thereby adhering to the principles of co-operative governance.

The chapters of LEMA include provisions for the management of: Environmental Advisory Bodies; Protected Areas; Wild and alien animals; Professional hunting; Aquatic biota and aquatic systems; Invertebrates; Indigenous plants; CITES; Preservation of caves and cave formation; Limited development areas; Mountain catchment areas; Environmental pollution; Environmental Compliance Officers; Permits, permissions, exemptions and exclusions; and Offences, evidence, penalties and forfeitures. Chapter 15 of LEMA, which deals with permits, specifically notes that a permit only applies to the extent "that any conditions subject to which it was issued are complied with."

2.3 Relevant Actors / Agencies

The Limpopo Department of Economic Development, Environment and Tourism is the principal agency tasked with implementing LEMA.

Within LEDET, the key directorates for the INECE-UNEP project focus issue are the CITES & Permit Management Directorate and, perhaps to a lesser extent, the Regulatory Enforcement Directorate and the Biodiversity Planning and Development Directorate. The Permits Directorate processes permit applications and grants permits for virtually all natural resource utilization. The Regulatory Enforcement Directorate, together with District Regulatory Services, conducts law enforcement inspections, brings charges against violators, and collects information on illegal activities. The Biodiversity Planning and Development Directorate, provides scientific comment on whether the applied-for activity is sustainable.

Much of the on-the-ground action occurs at the District level. Limpopo Province has 6 districts (Vhembe, Capricorn, Mopani, Bothlabela, Sekukhune, and Waterberg). There is often only one Regulatory Enforcement person in each District, and there are questions about the training, experience, and commitment of District staff.

2.4 Key Environmental Compliance and Enforcement Activities

It is largely the responsibility of the Districts to verify that a permitee is following the conditions in its permit, but this apparently rarely happens. Standard Operating Procedures do not exist for District staff concerning what steps to take once a permit is issued. Additionally, there is a shortage of trained Environmental Compliance Officers and, in some cases, a shortage of adequate equipment.

Coordination between the LEDET Head Office and the Districts in terms of activities, information, and data-sharing has been quite poor.

3 AVAILABLE DATA / EXISTING INFORMATION STRUCTURE

Currently, the LEDET Head Office registers in a Microsoft Access database those permit applications that have to be authorized at Head Office level; this database resides on a server at the Head Office in Polokwane. The applicable permit application data (i.e., the type of permit applied for, the day on which the application is received, the name of the applicant, the period it will take to process the application, and the level of authorization) are collected and manually entered into the permit registration computer program each time a hard copy of an application is received. Due to the lack of skilled personnel (the officer responsible for this resigned), LEDET

Head Office permit officers cannot extract the computer data as they would like to, so analyzing such data is very difficult at this stage.

This system is not yet in use at the District Service Centres, though some statistics are available on small Microsoft Excel databases in the districts. This information finds its way into a departmental annual report each year, which is printed and made available to officers and the public. It is the opinion of the LEDET permit officers that the data in this report is not a true reflection of what was processed.

LEDET permit issuance occurs with the aid of another computer program, and the data on permits issued is captured in a Paradox database on a server at the Head Office and on each stand-alone computer at the District Service Centres. When the system is down at the Head Office or something goes wrong with a computer program at the District Service Centres, manual permits are issued.

At the Head Office, CITES permits are issued with the aid of a computer permit program done in Microsoft Access. Again, the data for these permits are captured on a server. CITES annual reports are also available on the same server.

It is important to note that LEDET is currently upgrading its permit processing system, which has the potential to affect many of the issues mentioned. LEDET hopes to be issuing all permits (from both the Head Office and the Districts) on a web-interfaced permit program, which will enable all the data to be available on one server at the Head Office. However, this new system still will not cover compliance monitoring.

4 PROPOSED INPUT AND OUTPUT INDICATORS

At the meeting in Limpopo Province, meeting participants brainstormed a preliminary list of input and output indicators. In further discussions with Project Coordinator Deon Von Wielligh, it was determined that the core indicators relevant to compliance monitoring of permits are:

INPUT INDICATORS	OUTPUT INDICATORS
Number of Environmental Compliance Officers at Head Office	Number of each type of permit processed at Head Office
Number of Environmental Compliance Officers at each district office	Number of each type of permit processed at each district office
Average number of years of experience of Environmental Compliance Officers	Number of permit compliance inspections done at Head Office
Average level of education of Environmental Compliance Officers (on a numerical scale)	Number of permit compliance inspections done at each district office
Average competency profile of Environmental Compliance Officers	Number of permit compliance investigations done at Head Office
Average number of formal training courses attended by Environmental Compliance Officers	Number of permit compliance investigations done at each district office
Availability of essential equipment per Environmental Compliance Officer (fraction)	Number of permit compliance reports submitted by Head Office
Number of types of new or updated technology utilized in the past year in the context of compliance monitoring	Number of permit compliance reports submitted by each district office
Budget for monitoring compliance with permits	Number of permit violation cases registered with the South African Police Services
Average level of education of prosecutors (on a numerical scale)	Number of written admissions of guilt from permit violators
Average number of formal training courses	Amount of fines collected from written

relevant to environmental compliance attended by prosecutors	admissions of guilt from permit violators
Average level of education of magistrates (on a numerical scale)	Number of permit violation court cases brought to court
Average number of formal training courses relevant to environmental compliance attended by magistrates	Number of permit violation cases successful
Average amount of time allocated by prosecutors to environmental cases	Amount of fines collected from conviction for permit violation
Average amount of time allocated by magistrates to environmental cases	Number of forfeitures from conviction for permit violation

The input indicators track the level of resources available for permit compliance efforts at the provincial and district levels – i.e., the number and competence of the compliance officers, the equipment and technology available, and the funds available. The input indicators also monitor the crucial involvement of judicial officials in the permit enforcement process – their competence and the amount of time they allocate to environmental crimes.

The output indicators measure and assess the permits issued, the compliance investigations undertaken and reports submitted, and the prosecutions for violations. In other words, given the resources, support, and judicial involvement, the output indicators monitor how well the provincial and district officials enforce the permit conditions.

Combined, these indicators illuminate efforts to enforce Limpopo's natural resource utilization legislation and consequently will improve provincial compliance with South Africa's MEA obligations.

6 RECOMMENDATIONS AND NEXT STEPS

The Secretariat recommends that Phase II of the project in South Africa involve two basic components.

First, the indicators developed in Phase I should be further implemented and tested; they should then be expanded to include intermediate outcome indicators. To implement these indicators, the data on permit processing (e.g., name, address, ID number of applicants, type of permit applications, species to be utilized and number, validity period of permit, permit conditions) will be captured on computer on a centralized server at the Head Office by all appointed Environmental Compliance Officers and Nature Conservation Scientists at the Head Office and in the Districts. The data collection will be done by managers in the CITES & Permit Management Directorate at the Head Office and to a lesser degree by managers within the Districts overseeing permit processing. (As noted earlier, the LEDET permit processing system is currently under review and is being upgraded.) Once collected and analyzed, the indicator data will mainly be utilized by the CITES & Permit Management, Biodiversity Planning and Development, Regulatory Enforcement, and Hunting Regulation directorates to improve permit enforcement. The data will also be utilized for compilation of annual reports and to inform politicians. The indicators will reveal utilization patterns and the effectiveness of permit follow-up, as well as other trends. Politicians may use such data in order to assess budgets, personnel, and infrastructure.

The second element of Phase II should involve development of a strategy, in cooperation with DEAT and other national and provincial government stakeholders, to apply the input and output indicators and the lessons learned from the Limpopo pilot project in other provinces, where permit compliance is also a challenge. This will involve preparing a work plan (including a fundraising plan) for a national workshop on the project.