



SADC - CITES Engagement Strategy for 2022 - 2026





SADC-CITES Engagement Strategy (2022-2026)



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FOREWORD

The Southern African Development Community (SADC) region is endowed with abundant natural resources, which are essential for the livelihoods and existence of our local communities, in their efforts to combat poverty and ensure food and nutrition security; for economic development, as part of the regional integration and development agenda; and, therefore, requiring effective protection and management, to ascertain their sustainable use and biological conservation. It is estimated that the wildlife-based economy contributes about 4.6% of the total Gross Domestic Product (GDP) of the SADC region.



SADC recognizes the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) as one of the important Multilateral Environmental Agreements (MEAs) that ensure that international trade of wild flora and fauna do not threaten the survival of the species. In their decision making process, CITES brings together a diverse and complex range of views and interests from across the world requiring a good and balanced understanding to ensure that they are realistic and fair for the world to be effective and impactful . As such, the SADC Secretariat has been facilitating effective engagement of Member States in developing common positions, before participating in meetings of CITES' Conference of the Parties (CoP) to ensure that Member States effectively engage and speak with one voice.

However, in the absence of a coordinated and comprehensive strategy, the SADC region has been facing some setbacks to better defend its interests, considering its realities and successes in conservation efforts, that need to be adequately considered in CITES discussions and decisions, for the benefit of the whole world, including the SADC region. It is against this background that the SADC Ministers responsible for Environment, Natural Resources and Tourism, at their meeting held in June 2021, directed the SADC Secretariat to fast track the development of a CITES long-term engagement strategy to enable SADC Member States to effectively, continuously and adequately engage with key CITES parties outside and during CoP meetings. This will enable the decision making process to be well informed about the realities of the SADC region, considering its relevance to the global wildlife conservation agenda.

Consequently, the SADC-CITES Engagement Strategy (2022-2026) was developed and approved by the SADC Ministers responsible for Environment, Natural Resources and Tourism in June 2023.

This Strategy will facilitate and ensure the effective and impactful participation of the SADC Member States in CITES processes. It is fully informed by the SADC Protocols on Wildlife Conservation and Law Enforcement (1999), Forestry (2002) and SADC Transfrontier Conservation Areas (TFCA) Programme (2023-2033), two documents that are articulated in SADC Regional Indicative Strategic Development Plan (2020-2030) and Vision 2050. It advocates for the promotion of sustainable use of natural resources while improving livelihoods of rural communities and the regional economy, both of which are largely nature-based.

It is our hope that this Strategy will guide Member States to stand in solidarity, make their collective voices adequately heard and effectively engage CITES on its processes, which would enable effective conservation of wild fauna and flora in the region, while positively impacting to the world at large.

Elias M. Magosi
SADC Executive Secretary

EXECUTIVE SUMMARY

SADC-CITES Engagement Strategy for 2022 to 2026 aims to provide a framework for the SADC Member States to address the currently unfavourable situation at the Convention on International Trade in Endangered Species (CITES) where the SADC Member States have for decades already faced considerable opposition to proposals to advance international trade in well-managed populations of high value wildlife species. The development of this strategy is grounded on specific decisions taken by the SADC Ministers for Environment, Natural Resources and Tourism, held in October 2019, Arusha, Tanzania, through which the SADC Secretariat was directed to a) coordinate the development of minimum standards for management and disposal of stockpiles guided by the SADC principle of sustainable use; b) commission a consultant to explore an alternative traceable system to trade in ivory and rhino horn stockpiles benchmarking on the existing systems for valuable products such as the Kimberley Process for global diamond trade; and c) identify alternative options for disposal of stockpiles and report on progress made during the next Ministerial meeting. In the same meeting, the SADC Taskforce was formed which is composed of four countries namely Botswana, Namibia, Zambia, Zimbabwe and South Africa to lead in addressing grievances from CITES CoP18 and validate the Advisory Paper previously developed.

A vision, mission and goals were developed for this Engagement Strategy culminating in a five-year workplan, activities and indicators to change the current status quo in CITES. The goals are 1) to enhance understanding of the role of international trade in incentivizing community conservation and financing wildlife conservation and management, 2) advocate for change in status quo at CITES on trade from sustainable use of wildlife resources, and 3) SADC to make its case in the AU and UN, relying on international law and multilateral agreements. Detailed activities and indicators were developed to achieve these goals.

In addition, this strategy includes consultations which would allow developing of Guideline for the Management of Stockpiles of Valuable Wildlife Products; i.e.; an initial Concept Note for a Traceability System for trade in valuable wildlife products; and a Draft Guideline for the development of SADC regional common positions at Multilateral Environmental Agreements and related aspects of engagements by SADC Member States in international processes.

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ACRONYMS

AU	African Union
AMCEN	African Ministerial Committee on Environment
CBNRM	Community-Based Natural Resource Management
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CBD	Convention on Biological Diversity
COMESA	Common Market for Eastern and Southern Africa
CoP	Conference of the Parties (to CITES)
EAC	East African Community
ECOWAS	Economic Community of West African States
ESA	Endangered Species Act (of the United States of America)
EU	European Union
LEAP	Law Enforcement and Anti-Poaching
MCO	Ministerial Committee of the Organ
NCD	Negotiable Certificate of Deposit
PSSC	Public Security Sub-Committee
RISDP	Regional Indicative Strategic Development Plan
SADC	Southern African Development Community
SADC MS	SADC Member States
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNCEFACT	United Nations Centre for Trade Facilitation and Electronic Business
UNDP	United Nations Development Programme
UNEA	United Nations Environment Agency
USA	United States of America
WTO	World Trade Organization

1. BACKGROUND

1.1 Introduction

All of the Southern African Development Community (SADC) Member States are parties to the Convention on International Trade in Endangered Species (CITES) hence development of the SADC CITES Engagement Strategy is critical in ensuring their effective participation in the CITES processes.

The SADC region is the stronghold of natural resources including wildlife such as elephants and rhinoceros which through sustainable utilization and international trade contribute significantly to the economies of some of the SADC Member States. The majority of SADC citizens live in rural areas and depend largely on natural resources for their livelihoods. In recognizing these facts, the current SADC LEAP Strategy (2016 – 2021) which is under revision and Forestry Strategy (2020 – 2030) which operationalizes the SADC Protocols on Wildlife Conservation and Law Enforcement and Forestry, have dedicated components on Sustainable Trade and Use of Natural Resources. Importantly, international trade to international markets provide the greatest economic value to the sustainable use of these natural resources, but international trade in key species of wildlife is controlled by CITES.

The matter of identifying available options to manage current accumulated stockpiles of valuable wildlife products and to dispose of such stockpiles is of primary concern to the SADC Member States (SADC MS) and requires adequate consultations. The management of accumulations of valuable wildlife products and in particular elephant tusks or rhinoceros horns is difficult, complicated and expensive. Such items, but also other wildlife specimens such as valuable hides, or the horns, teeth, scales, bones or other parts or derivatives from other species, are usually very bulky, vulnerable to deterioration, especially vulnerable to theft because of their high value, and will generally accumulate indefinitely unless there are ways to dispose of them. Most SADC MS have not been able to dispose of such stockpiles regularly and are confronted with the high costs of their management, the high risks of their deterioration or theft and very importantly, the high opportunity costs of not being able to convert valuable wildlife assets into revenues that can support their conservation programmes or incentivize their rural communities to co-exist with wildlife.

The SADC LEAP Strategy identifies the need to develop a common approach on the management of stockpiles of valuable wildlife products such as ivory and rhino horn, in line with the Convention on International Trade in Endangered Species of Wildlife and Flora (CITES). SADC MS have been discussing the issue in

various meetings including the Public Security Sub-Committee (PSSC), Technical Committee on Wildlife, Ministerial Committee of the Organ (MCO) and the meetings of SADC Ministers for Environment, Natural Resources and Tourism; Fisheries and Aquaculture, i.e.:

- a) In 2015 in South Africa, the Ministerial Committee of the Organ (MCO) directed the Secretariat to facilitate the development of common approaches to the management of stockpiles. However, the meeting then to be hosted by Namibia to develop a common approach did not materialize.
- b) The PSSC meetings held in (i) June 2016, Maputo, Mozambique; (ii) June 2017, Dar es Salaam, Tanzania; (iii) April 2018, Luanda, Angola; and (iv) May 2019, Gaborone, Botswana, respectively directed SADC Secretariat to:
 - a. develop a Draft Common Approach on Management of Ivory Stockpiles in line with CITES;
 - b. finalize development of the Common Approach on Management of Ivory Stockpiles by December 2017 and present it to the next PSSC meeting in 2018;
 - c. expedite finalization of the Draft Common Approach before December 2018, in time for the 18th meeting of Conference of Parties to CITES (CoP18), scheduled for August 2019; and
 - d. convene a meeting of Technical Experts to discuss modalities of commercializing the current stockpiles in the Member States and present a Regional Position to the Joint Ministers of the MCO and of Wildlife and Natural Resources, scheduled for 16 July 2019.
- c) In November 2017, Pretoria, South Africa, the joint meeting of SADC Ministers for Environment and Natural Resources, Fisheries and Aquaculture urged SADC MS to assist each other in the management of stockpiles in line with the decision 3/SS 6 of the African Ministerial Committee on Environment (AMCEN). The meeting also directed the Secretariat to facilitate the development of common approaches to the management of stockpiles in line with the decision of the MCO of July 2015.
- d) After CITES CoP18, the joint meeting of SADC Ministers for Environment, Natural Resources and Tourism, held in October 2019, Arusha, Tanzania, conducted a post-mortem of CITES CoP18; and directed SADC Secretariat to:
 - a. coordinate the development of minimum standards for management and disposal of stockpiles guided by the SADC principle of sustainable use;

- b. commission a consultant to explore an alternative traceable system to trade in ivory and rhino horn stockpiles benchmarking on the existing systems for valuable products such as the Kimberley Process for global diamond trade; and
- c. identify alternative options for disposal of stockpiles outside the CITES regime, in view of the narrow possibilities of disposal under CITES and report on progress made during the next Ministerial meeting.

Furthermore, in the same Ministers meeting, the Taskforce was formed which is composed of four countries namely Botswana, Namibia, Zambia, Zimbabwe and South Africa to lead in addressing grievances from CITES CoP18 and validated the Advisory Paper previously developed and submitted their recommendations which include the Roadmap to the Ministers meeting of 18th June 2021.

It is against this background that an Advisory Paper on Management and Disposal of Stockpiles of Valuable Wildlife Products and Roadmap for its implementation was developed on options for stockpile management and disposal. This Advisory Paper was subsequently approved by the SADC Joint Meeting of Ministers responsible for Environment, Natural Resources and Tourism, held virtually on 18th June 2021, who also directed the SADC Secretariat to take steps to develop a CITES Engagement Strategy/SADC-CITES Engagement Strategy. At the same meeting, the SADC Ministers of Botswana, Namibia, Zambia and Zimbabwe took the lead in advocating that SADC should form a parallel trade treaty for ivory and rhino horn among others as underpinned in the Advisory Paper. Therefore, Engagement Strategy, intends to achieve the desired result by exploring trade on ivory and rhino beyond the CITES regime.

1.2 Rationale

The SADC MS seek to realize the full value of ivory and rhino horn which they regard as part of their natural wealth. The returns would be used to meet the costs of conserving the species, improving local communities' livelihoods and the development of the region. They believe that an international trading system which relies on open markets to balance supply and demand would reduce illegal hunting and achieve the transparency necessary to reduce corruption.

This Engagement Strategy will primarily focus on elephant ivory and rhino horn, being the two most valuable and sensitive wildlife products held in government-controlled stockpiles by most SADC MS, and also the most problematic products to dispose of internationally because of the current impasse in CITES. Trade in live specimens of particularly elephant and rhino are also covered as international trade is allowed in such live specimens under certain circumstances but is also increasingly being obstructed.

The Advisory Paper on Management and Disposal of Stockpiles of Valuable Wildlife Products comprehensively explains the background and rationale to all options to dispose stocks and related issues of which need further scrutiny for their operationalization. More research particularly on international treaties, implications, awareness and advocacy are needed. However, the background of Advisory Paper and rationale remain relevant and will not be repeated again in the Engagement Strategy. Thus, the Advisory Paper is considered as one of the key companion documents to this Engagement Strategy. Furthermore, the Draft Memoranda of Understanding previously developed for engaging with the destination countries for both trade in wildlife and forest products are critically important tools to guide the SADC MS to engage with market countries.

1.3 Advocacy and lobbying challenges and opportunities

SADC MS under CITES have the right to use wildlife resources through responsible international trade to promote wildlife conservation and rural livelihoods in order to create incentives for people to prevent the conversion of wildlife habitat to other forms of land use and to promote co-existence with wildlife despite high incidences of human-wildlife conflict. In addition, trade in wildlife resources contributes to the financing of wildlife conservation and management and supports community-based conservation and rural livelihoods. These rights, incentives and benefits form the basis for biodiversity conservation strategies in SADC, but these are increasingly being obstructed and undermined.

There has been growing dissatisfaction amongst the SADC MS with CITES's handling of international trade in ivory and rhino horn since SADC was founded in 1992. Those SADC States whose elephant populations are listed on Appendix II of CITES (Botswana, Namibia, South Africa and Zimbabwe) are currently prevented from engaging in trade despite the provision for it in the Articles of the Convention. Some SADC States who have attempted over several decades to have their elephant populations listed on Appendix II (e.g. Tanzania and Zambia) have been unsuccessful.

There are further grounds for dissatisfaction. As elaborated in the Advisory Paper, the manner in which the Secretariat amended Annotation 2 to the listing of the African elephant populations in Appendix II without authorization and without consideration that this amendment further reduced to scope of trade, and then subsequently did not accept the Reservations entered against this amendment by SADC MS, is unacceptable. This issue is still unresolved and a CoP predominantly unsympathetic to trade in this species is unlikely to solve the matter satisfactorily. This may give ground for the SADC MS concerned to lodge a further dispute over the way that this was handled, which ultimately could lead to arbitration in favour of the SADC MS. Going further back, the decisions at CoP14 regarding a decision-making mechanism that were part of an EU-brokered compromise were not honoured by

the Standing Committee or CoP17, giving grounds for further dissatisfaction. The SADC MS with their elephant populations in Appendix II of CITES undertook as part of this compromise at CoP14 not to submit further trading proposals provided that a decision-making mechanism for further trade in elephant ivory be prepared by the Standing Committee and approved by CoP17. Members of the Standing Committee that were against any resumption of trade in ivory managed to block the development of the decision-making mechanism and the Standing Committee had no proposal to submit to CoP18.

Threats

All of these problems can be attributed to targeted advocacy by NGOs and specifically the Animal Rights organizations that managed to get the majority of CITES parties to take a position that is sympathetic to their cause. In response, SADC MS did their best to explain the important link between their conservation strategies and the ability to trade in wildlife resources. The main response against this has always been that while SADC might be able to conduct regulated trade in e.g. ivory, any international trade in ivory would signal to criminal networks that ivory can be traded. Despite the fact that there has never been any acceptable data to support this hypothesis, this narrative was good enough for most CITES Parties. It is important to understand how the Animal Rights organizations operate at national level in the USA in particular and in Europe. First, these organizations use a simplistic message that trade will cause the extinction of elephants in order to raise substantial amounts of funding from the public. Secondly, they will petition national governments or even challenge them in court to prevent any support for trade in wildlife. Third, they will use letter-writing campaigns or mobilize local constituents to vote against any political leader that is sympathetic to SADC's agenda on trade. All of this is done with the support of local and international media with whom they have worked hard to cultivate supportive stances. While individual organizations compete with others for funding, when it comes to the international arena, they share resources and cooperate. The Animal Rights organizations have further managed to use certain CITES Parties to articulate their views, notably Kenya and Israel but more recently a larger group of West and Central African CITES Parties. It has been suspected for a long time that such support is secured through funding but there has been no hard evidence to prove that.

SADC has therefore been up against a well-orchestrated campaign by Animal Rights organizations with large budgets using professional communications advisors and a sympathetic media. It is thus uncertain that any amount of lobbying or advocacy will result in the majority of CITES Parties changing their perspectives, given the current general anti-trade sentiment of the CoP. In the belief that truth would ultimately prevail, the best hope for SADC is to refine its advocacy and lobbying to effectively convey its successful conservation of species like elephants and rhinos; the scientific basis for its wildlife management, conservation programmes and trading proposals; and the risks of preventing trade for the protection of wildlife habitat from conversion to other forms of land use.

In pursuit of any new approach taken by SADC concerning CITES or the development of an alternative trade mechanism careful legal due diligence is required in order to avoid inevitable reaction of the Green Movement and the media if any steps are taken towards trade. It is very important that SADC – for as long as its members are Parties to CITES to continue adheres to all the requirements of CITES. However, what is at stake is the public standing of individual SADC MS and the SADC region as a whole.

Opportunities

It is possible that a significant number of CITES Parties have good intentions through their actions in the Standing Committee or CoP to combat illegal killing (poaching) or illegal trade by prohibiting trade altogether or supporting stricter regulation of trade. These perceptions that result in opposition to trade are a real challenge in CITES and this Engagement Strategy should help the SADC MS to explain the consequences of such opposition to trade for wildlife conservation in SADC through effective engagement.

An important need for lobbying lies amongst the SADC MS. If they can be persuaded to lend their full weight to proposals from their own Regional Economic Community and Africa as a whole, there is every chance of a successful outcome. Many CITES Parties from outside Africa have in the past said that the matter of trade in African elephants or African rhinos should be decided by Africa. It is thus very important first of all for SADC to speak with one voice and secondly for SADC to engage within the continent at the African Union and other Regional Economic Communities on the basis of what has already been agreed in the African (Banjul) Charter on Human and Peoples' Rights and the Revised African Convention on the Conservation of Nature and Natural Resources (see the Advisory Paper for details).

If SADC MS act on their own and do not adhere to the common positions developed for CITES within SADC, they seriously undermine the international standing of SADC. It should be anticipated that the Animal Rights groups will seek to split or divide SADC. This can be addressed through the adoption of common positions by SADC on key issues in CITES based on a consultative process (See Annex 2) and communicating such common positions officially through a spokesperson. CITES (Article XXI) already provides recognition for Regional Economic Integrated. Going one step further, SADC could consider applying for membership of CITES as a bloc which means that SADC would be able cast a vote equivalent to the number of its MS.

While CITES Parties have easily rejected arguments and facts presented by SADC MS, they might be more receptive to community voices. CITES is one of the few MEAs without a formal mechanism to give affected communities a voice. The same countries that supported such mechanisms in e.g. the Convention on Biological Diversity oppose any formal mechanism for consulting rural communities or even just reflecting their views in CITES processes. This is an area that SADC should focus on, i.e. to facilitate that authentic community voices are heard at CITES.

Effective engagement through advocacy and lobbying requires the use of a professional communications company to guide the advocacy campaign for SADC. Communications has been the weak point in previous advocacy by SADC. SADC is up against a campaign against the use of wildlife that is expertly done by communications specialists. The SADC message is complex and counter intuitive; this is why a communications expert is necessary to refine SADC messaging on CITES. Communications experts also have links with international media and will help to get SADC messaging into such media.

2. VISION, MISSION AND GOALS

2.1 Vision

The purpose of stating a vision in a strategy is to articulate which state or outcome one is striving to attain. The following Vision statement for this Engagement Strategy is proposed:

SADC MS stand together in solidarity at CITES and related processes to show unity to the outside world and effectively engage in CITES processes to enhance better understanding of its conservation strategy and the importance of economic incentives for community-based conservation and regional economic development.

2.2 Mission

The purpose of stating a mission in a strategy is to articulate the role of SADC or the role of the implementers of the strategy in getting to the desired state or outcome specified in the Vision. The following Mission statement is proposed:

SADC MS will adopt a whole-of-government ¹ approach for this Engagement Strategy and deploy all diplomatic, political, international relations and international legal means to raise awareness of its plight and to seek support for a solution.

2.3 Goals

Goals established as part of a strategy articulate the steps one needs to take to reach the desired state or outcome specified in the Vision. The following Goals are proposed:

¹ Whole-of-government is a term used to indicate that a sectoral approach is not appropriate or effective, but that a consolidated and integrated approach is needed by a government to address an issue or challenge. In this instance, the obstruction that SADC faces in CITES is political and not scientific, the solutions may depend on legal and not conservation inputs. Foreign relations may be affected beyond just how CITES Management Authorities endeavour to cooperate or not in CITES but also require the intervention of Heads of State at the AU and the UN, or with key strategic and trading partners. These inputs and outcomes are far beyond the powers and means of the SADC Wildlife (or CITES) Management Authorities

SADC through this Engagement Strategy will strive to:

- **Goal 1: Enhance understanding of the role of international trade in incentivizing community conservation and financing wildlife conservation and management**
- **Goal 2: Advocate for change in status quo at CITES on trade from sustainable use of wildlife resources**
- **Goal 3: Make its case in the AU and UN, relying on international law and multilateral agreements.**

3. STRATEGIC CONSIDERATIONS

The SADC Regional Indicative Strategic Development Plan (RISDP 2020-2030) provides a coherent and comprehensive ten-years development Agenda on social, economic, peace, security, political and governance issues with a major goal of improving the standard and quality of life of people of the SADC region. One of the Strategic Objectives focuses on the “sustainable utilisation and conservation of the natural resources and effective management of environment” with expected outcome of “improved management of the environment and sustainable utilization of natural resources”.

Building on the RISDP and guided by the key elements of the RISDP Strategic Objective namely,

- improving the standard and quality of life of people of the SADC region
- sustainable utilisation and conservation of the natural resources and effective management of environment
- improved management of the environment and sustainable utilization of natural resources

The Strategic Objectives of this Engagement Strategy should be aimed at those processes or factors that prevent the achievement of the RISDP first and foremost, and secondly, the strategic vision for this Engagement Strategy. Strategic objectives that can therefore be considered for this Engagement Strategy are given in Table 1 that outlines and summarizes the workplan for implementing this strategy.

Note that it is very hard to set reasonable targets for this engagement strategy when the odds are heavily stacked against the SADC MS. Nonetheless, the following are important:

Solidarity within SADC

SADC should absolutely commit to present a united front in its engagement at CITES or on international trade in wildlife in general. If there are differences amongst the Member States, these need to be resolved internally and a protocol is needed on resolving such differences through the development of common positions and procedures on how to disagree without Member States reporting to speaking or voting against each other at CITES as discussed in the Draft Guideline for the development of SADC regional common positions at Multilateral Environmental Agreements and related aspects of engagements by SADC Member States in international processes. This guideline focuses on the process of developing

common positions for SADC at different MEAs including CITES and coordination within SADC prior to and during meetings of the Conference of the Parties to maintain solidarity internally and towards the outside world. These Draft Guidelines are presented as Annex 2.

Changing the status quo in CITES

SADC should accept that realistically, it is most unlikely that anything will change much in their favour at CITES without a major level of reform which the majority of Parties is not interested in doing. This is likely to only change as the result of effective advocacy and lobbying at CITES level but importantly also at the African Union and elsewhere (see Section 1.3 and the Advisory Paper).

Other initiatives to change the status quo in CITES include the development of a traceability system for high value wildlife products that may ultimately have benefits but in the short term will not be enough to break the impasse and persuade more than a hundred other Parties to vote to open trade in such products by achieving a two-thirds majority. The problem is not about how to technically manage international trade in high value wildlife products, it is to convince a large number of heavily influenced and pressurized governments that trading wildlife products is better for wildlife conservation in southern Africa than not trading, an argument that cannot be made solely based on science. Economics, politics, international relations, international law and human rights need to inform that argument, meaning that an all-of-government approach is needed. Nonetheless, developing a traceability system may reassure some CITES Parties that the regulation of legal trade in wildlife can be strengthened in such a manner to eliminate risks that legally traded goods could be used to launder illegal goods. Considerable work has been done in CITES on traceability and assistance is available to SADC from other international organizations as outlined in Annex 1. The next steps would be to:

- adopt the recommended definition of traceability, and recommendations on international standards, and planning and managerial best practice
- consider choosing the UN/CEFACT Traceability of Animals and Fish (standard or system) as the preferred option for SADC developing a traceability system for high value wildlife products.
- conduct a feasibility study on an international traceability system for elephant and rhinoceros products that are produced within SADC and traded internationally
- as a first option, the SADC MS should request assistance from the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) to conduct this feasibility study in collaboration with them and with the most likely future importers of elephant and rhinoceros products that are produced within SADC
- to encourage participation in the feasibility study, SADC through an appropriate channel should inform the CITES Management Authorities of

China, Japan and Vietnam of its intention to establish a traceability system for elephant and rhinoceros products that are produced within SADC and request their assistance in this regard, including participation in the feasibility study

- the SADC MS should inform the CITES Secretariat of their desire to develop a traceability system for elephant and rhinoceros products that are produced within SADC and their intention to request assistance from UN/CEFACT (alternatively UNCTAD) for this purpose and also request the assistance of the SADC Secretariat in line with Decision 18.145 c).
- the SADC MS should seek assistance from International Cooperating Partners to do a scoping study of international fair trade certification organizations with the aim of identifying potential sustainability and community development certification for wildlife products from SADC including the export of hunting trophies which are crucial for the support of CBNRM programmes in SADC and wildlife producers or wildlife producing communities. Such certification could complement a traceability system and achieve better acceptance of trade in wildlife from southern Africa.

While SADC may occupy the moral high ground based on its successful conservation of key wildlife species and the strength of its CBNRM programmes, it has probably become too predictable at CITES. SADC should regain the initiative and aim to strategically engage to change the currently unfavourable status quo, using every possible means. Raising disputes in terms of Article XVIII of CITES over the trampling of SADC's interests in CITES or the "mission-creep" that is going on in CITES, protesting about CITES at the AU and UN, walking out of meetings or not attending CoPs, are examples of such engagement strategies. Perhaps one of the most strategic things that SADC could consider is obtaining clear legal guidance on Article 30 of the Vienna Convention with regards to sovereignty rights to trade within and beyond CITES regime.

In view of these issues, it is proposed that the main primary focus of this Engagement Strategy will be:

- 1. For SADC MS to present a united front at CITES using all possible means**
- 2. For SADC MS to challenge the status quo at CITES at every possible opportunity**
- 3. To continue explore the creation of a new trade arrangement between SADC MS and potential importing countries**

4. WORKPLAN, ACTIVITIES AND INDICATORS

Table 1 presents an integrated workplan based on the Goals identified, Strategic Objectives derived from the Advisory Paper and consultations with the CITES Taskforce. Indicators to monitor progress are also included.

Table 1. Workplan for the implementation of the SADC- CITES Engagement Strategy

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Goal 1: Enhance understanding of the role of international trade in incentivizing community conservation and financing wildlife conservation and management							
Strategic Objective 1.1 Facilitate operationalization of the SADC CITES Taskforce	<ul style="list-style-type: none"> Mobilize resources to support Taskforce operations Build capacity of Taskforce on advocacy and lobbying skills 	<ul style="list-style-type: none"> Resources mobilized for Taskforce operations Taskforce capacity built for lobbying and advocacy 	X	X	X	X	X
Strategic Objective 1.2 Establish a professional communications strategy on CITES issues for SADC MS	<ul style="list-style-type: none"> Mobilize funds to develop and operationalize professional communications strategy on CITES issues SADC Taskforce to coordinate content development and communication strategies Engaging a communication specialist or company to help coordinate the messaging and campaign Communications campaign designed and submitted to SADC Taskforce for approval Implement communications campaign 	<ul style="list-style-type: none"> Communication strategy operationalized SADC Taskforce coordination in place Communications specialist engaged Communications campaign in place Communications campaign implemented 	X	X	X	X	X

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Goal 2: Advocate for change in status quo at CITES on trade from sustainable use of wildlife resources							
Strategic Objective 2.1 SADC MS to present a united front at CITES using all possible means	<ul style="list-style-type: none"> Establish a common position on all key issues to ensure solidarity and cohesion Finalize the draft Guideline on engagement at MEAs to ensure solidarity and cohesion Present common position for CITES CoPs to the Council of Ministers for approval and endorsement by the SADC Summit 	<ul style="list-style-type: none"> Common position in place SADC Guideline for engagement at MEAs in place Council and Summit approval and endorsement 	X		X ²		
	<ul style="list-style-type: none"> SADC ES to request the Summit to request national delegations not to speak or vote against other SADC national delegations in public 	<ul style="list-style-type: none"> SADC MS engages at CITES in solidarity and mutual support 					

² Depending on the timing for convening CoP20, which is expected 2-3 years after CoP19

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
<p>Strategic Objective 2.2 SADC MS to</p> <p>obtain legal advice to progress the dispute lodged by Zimbabwe among other MS at CoP18 to move the matter to arbitration</p>	<ul style="list-style-type: none"> • Verify the historical record of this event and assemble all written records • Zimbabwe/other SADC MS to define the remedy sought • Zimbabwe/other SADC MS to appoint its negotiating team • Consult Offices of Attorney General in SADC MS about process to be followed (also see Advisory Paper for options regarding negotiation (required in CITES Article XVII) before proceeding to arbitration • If other SADC MS decide to join Zimbabwe in dispute, SADC Secretariat to advise appropriate SADC structure dealing with legal matters of the need for their engagement and advice • Engage the CITES Standing committee about the process of dispute settlement (first negotiation then arbitration) 	<ul style="list-style-type: none"> • Historical record verified and all written records assembled • Desired remedy defined • Legal consultations done • CITES Standing Committee engaged • Dispute settlement process in place 	X	X			

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
<p>Strategic Objective 2.3 SADC MS to formally lodge a dispute⁶ that decisions at CoP14 regarding a decision-making mechanism that were part of an EU brokered compromise were not honoured by the Standing Committee or CoP17, causing breach of trust, economic loss and negative conservation impacts</p>	<ul style="list-style-type: none"> • Verify the historical record of this event and assemble all written records • SADC MS to define the remedy sought • SADC MS to appoint their negotiating team • Consult Offices of Attorney General in SADC MS about process to be followed (also see Advisory Paper for options regarding negotiation (required in CITES Article XVII) before proceeding to arbitration • SADC Secretariat to advise appropriate SADC structure dealing with legal matters of the need for their engagement and advice • Engage the CITES Standing committee about the process of dispute settlement (first negotiation then arbitration) 	<ul style="list-style-type: none"> • Historical record verified and all written records assembled • Desired remedy defined • Legal consultations done • CITES Standing Committee engaged • Dispute settlement process in place 	X	X			

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
<p>Strategic Objective 2.4 SADC MS to</p> <p>formally lodge a dispute³ that decisions at CoP17 and CoP18 regarding SADC populations of elephant and white rhinoceros were made in disregard of the conservation status of these species in the relevant national populations causing breach of trust, economic loss and negative conservation impacts</p>	<ul style="list-style-type: none"> • Verify the historical record of this event and assemble all written records • SADC MS to define the remedy sought • SADC MS to appoint their negotiating team • Consult Offices of Attorney General in SADC MS about process to be followed (also see Advisory Paper for options regarding negotiation (required in CITES Article XVII) before proceeding to arbitration • SADC Secretariat to advise appropriate SADC structure dealing with legal matters of the need for their engagement and advice • Engage the CITES Standing committee about the process of dispute settlement (first negotiation then arbitration) 	<ul style="list-style-type: none"> • Historical record verified and all written records assembled • Desired remedy defined • Legal consultations done • CITES Standing Committee engaged • Dispute settlement process in place 	X	X			
<p>Strategic Objective 2.5 SADC MS to point out at every opportunity in CITES that the rights over resources and the human rights of indigenous people and rural communities in UNDRIP⁴ and UNDRPOP⁵ are being undermined at CITES</p>	<ul style="list-style-type: none"> • Prepare a technically correct and legally cleared statement that can be used by SADC delegations at CITES as appropriate and which can be formally submitted as part of the record of the CoP or meetings of the Standing Committee • Communications specialist to advise on content to be communicated and media including social media coverage 	<ul style="list-style-type: none"> • Communications specialist input secured and used • Statement in place • Statement used by SADC delegations in CITES 	X	X	X	X	X

3 with CITES represented by the CITES Standing committee in between CoPs or with the CoP as the ultimate decision-making body in CITES

4 United Nations General Assembly Declaration on the Rights of Indigenous Peoples 61/295

5 United Nations General Assembly Declaration on the Rights of Peasants and Other People Working in Rural Areas

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Strategic Objective 2.6 SADC Taskforce to assist SADC indigenous people and rural communities to appeal for intervention by the UN Rapporteur on Human Rights	<ul style="list-style-type: none"> SADC MS to coordinate with CLN and national CBNRM programmes, Indigenous People and human rights groups to encourage engagement with UN Rapporteur on Human Rights Communications specialist to advise on content to be communicated and media including social media coverage 	<ul style="list-style-type: none"> Coordinating mechanism in place Communications specialist input secured and used UN Rapporteur on Human Rights engaged 	X	X	X	X	X
Strategic Objective 2.7 SADC MS encourage their indigenous people and rural communities to conduct public mass protests and deliver petitions to non-SADC African Union member, US, EU, China, Japan, Russian Federation etc. diplomatic representatives and UN Resident Representatives	<ul style="list-style-type: none"> SADC MS to coordinate with CLN and national CBNRM programmes, Indigenous People and human rights groups to advocate and lobby on required actions in each affected SADC MS Communications specialist to advise on content to be communicated and media including social media coverage 	<ul style="list-style-type: none"> Coordinating mechanism in place Communications specialist input secured and used Mass protest launched 	X	X	X	X	X

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Goal 3: Engage with national and international trading partners in high value wild-life products to develop a parallel trade mechanism outside CITES							
Strategic Objective 3.1 SADC MS to engage with ASEAN plus 3 through its Secretariat about the need and means of exploring trade arrangement on the basis of the Vienna Convention Article 30	<ul style="list-style-type: none"> SADC CITES Taskforce to prepare a technical document from the Advisory Paper and this Engagement Strategy as the basis for engaging the China, Japan and Vietnam SADC CITES Taskforce to arrange a meeting with the diplomatic representatives of China, Japan and Vietnam to Botswana/SADC on the need for disrupting the status quo in CITES by seeking their support SADC CITES Taskforce to request a meeting with the CITES Management Authorities of China, Japan and Vietnam in the intersessional period on the need for changing the status quo in CITES by developing a common position An ideal outcome would be to agree on a process to be followed in drafting the trade agreement Present zero draft agreement for comment Incorporate feedback Conclude agreement Deposit signed agreement with UN Secretary General 	<ul style="list-style-type: none"> Technical document prepared Meeting with foreign representatives arranged Meeting with CITES Management Authorities arranged Way forward agreed 	X	X	X		

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Goal 4: SADC to make its case in the AU and UN, relying on international law and multilateral agreements							
<p>Strategic Objective 4.1 SADC MS to engage with the African Union to seek a common understanding that AU Members have a legal and moral obligation in terms of Article 21 of the Banjul Charter not to obstruct other AU Members in international decision-making processes related to the disposal of their natural resources, supported by the sovereignty principle in the Revised African Convention on the Conservation of Nature and Natural Resources</p>	<ul style="list-style-type: none"> • Prepare a briefing document suitable for Ministers of Environment, Foreign Relations, Attorneys General, Ambassadors and Heads of State on: <ul style="list-style-type: none"> □ the sovereign rights of SADC MS over natural resources enshrined in the African (Banjul) Charter on Human and Peoples' Rights, Revised African Convention on the Conservation of Nature and Natural Resources □ affirmation in Revised African Convention on the Conservation of Nature and Natural Resources of the sovereignty principle of exploitation of natural resources and the duty of harnessing natural resources for the advancement of people • Obtain legal screening and advice on the briefing document from appropriate SADC structure dealing with legal matters of the need for their engagement and advice • SADC Secretariat to present the briefing document to the Organ for input and clearance, after which the briefing document should form the basis of interventions by the Chairperson of SADC at the AU Summit, supported by the Heads of State of other SADC MS • An ideal outcome would be a resolution adopted by the AU Summit 	<ul style="list-style-type: none"> • Briefing document prepared • Legal screening obtained • Clearance from Organ obtained • Submission made to AU Summit • Resolution adopted at AU Summit 	X	X			

Goal/Strategic Objective	Activities	Indicators	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
<p>Strategic Objective 4.2 SADC to engage with the United Nations to seek a common understanding that UN Members have a legal and moral obligation in terms of United Nations General Assembly</p> <p>Resolution 1803 (XVII) of 14 December 1962, Permanent sovereignty over natural resources, 4th Preambular paragraph¹⁰ and Declares 1,2,5 and 7 to respect sovereign rights over natural resources and their disposal, especially when all scientific criteria determined by other bodies such as CITES have been met</p>	<ul style="list-style-type: none"> SADC Taskforce to obtain advice on entry points to raise this argument in the UN Prepare a briefing document suitable for Ministers of Environment, Foreign Relations, Attorneys General, Ambassadors and Heads of State on: UNGA Resolution 1803 (XVII) Preamble and Declares 1,2,5 and 7 with respect to sovereign rights over natural resources and their disposal, especially when all scientific criteria determined by other bodies such as CITES have been met Obtain legal screening and advice on the briefing document from appropriate SADC structure dealing with legal matters of the need for their engagement and advice SADC Secretariat to present the briefing document to the Organ for input and clearance, after which the briefing document should form the basis of interventions by the Chairperson of SADC at the UN General Assembly or other UN fora, supported by the Heads of State of other SADC MS An ideal outcome would be a resolution/ declaration adopted by the UNGA/ other fora 	<ul style="list-style-type: none"> Advice on engagement with UN obtained Briefing document prepared Legal screening obtained Clearance from Organ obtained Submission made to AU Summit Resolution/ declaration adopted at AU Summit 	X	X			

¹⁰ It states that "Considering that any measure in this respect must be based on the recognition of the inalienable right of all States freely to dispose of their natural wealth and resources in accordance with their national interests, and on respect for the economic independence of States"

5. ALLIES

SADC has very few allies on these issues in CITES, and if the results of voting on amendment proposals at the past two CoPs are anything to go by, SADC may be losing further ground. The strongest allies of the SADC MS governments are their own people, especially the rural people involved in the various national CBNRM programmes. These are the people with the most to lose or gain as the result of international policy-making processes at CITES and other fora that threaten to undermine their conservation programmes and their livelihood security. The national CBNRM programmes have recently formed the Community Leaders Network of southern Africa, in which the national CBNRM programmes of seven SADC MS already participate (Botswana, Malawi, Mozambique, Namibia, Tanzania, Zambia and Zimbabwe).

Further engagement with the United States of America, the European Union and regional structures such as ASEAN plus 3, the African Union, and other Regional Economic Communities in Africa such as COMESA, ECOWAS and EAC may in the longer-term create additional allies. In the short-term, public support from these entities for SADC proposals at CITES to advance trade in species such as elephants and rhinos is unlikely. Opposition to well-founded SADC proposals is more likely to be based on political positions than on scientific grounds. Political engagement is therefore very important, as outlined in the Advisory Paper, based primarily on African Union and United Nations instruments that recognize sovereign rights over natural resources and the rights of indigenous people and local communities to determine how they use their natural resources.

SADC used to have stronger support from other regions and countries in the past than it appears to be the case now. Arabic countries like Sudan, Saudi Arabia and Qatar used to be outspoken supporters. The same applies to most of the Caribbean countries and some of the central American countries. It will be worth re-engaging with these countries and regions diplomatically to encourage renewed understanding of SADC's plight and seek their support.

6. ACKNOWLEDGEMENTS

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7. ANNEXES

- 7.1 **Annex 1: An Initial Concept Note for a Traceability System for trade in valuable wildlife products**
- 7.2 **Annex 2: Draft Guideline for the development of SADC regional common positions at Multilateral Environmental Agreements and related aspects of engagements by SADC Member States in international processes**

ANNEX 1

An Initial Concept Note for a Traceability System for trade in valuable wildlife products

Background

The Advisory Paper on Management and Disposal of Stockpiles of Valuable Wildlife Products (hereafter Advisory Paper), adopted by the SADC Joint Meeting of Ministers responsible for Environment, Natural Resources and Tourism, held virtually on 18th June 2021, included as part of a strategy of engagement with CITES the option of developing a traceability system for high value wildlife products from SADC. Such a traceability system would one way or the other be included in future trade proposals from SADC Member States (hereafter SADC MS) to CITES. As experienced with the diamond trade from SADC and elsewhere in Africa which came perilously close to trade sanctions and consumer boycotts because of the connotation with “blood diamonds” produced in conflict zones, the traceability system established through the Kimberly Process went a long way to prevent such sanctions and boycotts by building confidence in the ability of the producing states and export and processing industries to verify the legal origins of their products. The SADC MS clearly wish to explore a similar system with the same results concerning trade in high value wildlife products.

The Advisory Paper considered the key principles of the Kimberly Process and concluded that it largely resembles the CITES system of non-detriment and legal acquisition findings and the use of a robust permit control and reporting system: *“ Importantly, the Kimberley Process obtained a mandate of support from the United Nations Security Council through Resolution 1459 (2003) subsequently unanimously endorsed by the UN General Assembly. This scheme has many similarities to CITES, e.g. the use of standard certificates of legal origin; designation of authorities; obligations on participants in the scheme to have national legislation, internal controls and deterrent penalties for infractions; data collection and annual reporting; and transparency of decision-making by allowing observers etc. It differs from CITES in its provisions on industry self-regulation, independent auditing at private sector operator level, and mutual assistance and cooperation to address problems (SADC MS will attest to the fact that CITES cannot be characterized as an instrument facilitating mutual cooperation and assistance but rather obstruction and obfuscation). Other important differences are that the certification scheme obtained support from the United Nations and that it operates on voluntary basis.*

The essential elements of the scheme are nevertheless within the scope of existing obligations under CITES and it is not clear what additional value such a scheme would have on the matter of trading elephant ivory and rhino horn. The real obstacle facing such trade is not the issue of illegal specimens being traded internationally or as part of legal consignments or the fraudulent use of export permits for illegally obtained specimens, but the convictions held by the majority of CITES Parties that legal trade will stimulate illegal trade or alternatively, that it is immoral to trade in elephants and rhinos.

A certification scheme on par with the Kimberley Process cannot be seen as a trading process that is alternative to CITES. As long as the producer and consumer states for these products remain members of CITES, they are obliged to comply with the provisions of CITES. A certification scheme could at best be a complementary tool.”

The role of traceability in establishing an even more restrictive trading system than previously proposed was also considered in the Advisory Paper (Section 4.5), i.e. to potentially include “restrictions on trade subject to a higher degree of traceability of the specimens to be traded. Conceivably, a more rigorous system of traceability can be proposed. An example of this is e.g. the Kimberley Process established to prevent trade in so-called ‘blood diamonds’ or ‘conflict diamonds’. The Kimberley Process is nothing other than a common certification scheme collectively agreed by diamond-producing and consumer countries. It includes the following main elements¹:

- *all specimens are exported accompanied by a Kimberley Process Certificate;*
- *minimum standards for the issuance of such certificates, i.e.:*
 - *establishing a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory;*
 - *designating an Importing and an Exporting Authority(ies);*
 - *ensuring that rough diamonds are imported and exported in tamper resistant containers;*
 - *as required, amending or enacting appropriate laws or regulations to implement and enforce the Certification Scheme and to maintain dissuasive and proportional penalties for transgressions;*
 - *collecting and maintaining relevant official production, import and export data, and collate and exchange such data;*

¹ <https://www.kimberleyprocess.com/en/kpcs-core-document>

- *principles of industry self-regulation that include the use of verification by independent auditors of individual (producing and exporting) companies and supported by internal penalties set by the industry;*
- *minimum requirements for certificates;*
- *validation of certificates by national authorities;*
- *notification of all other participants in the scheme of the features of certificates;*
- *providing mutual assistance to other participants in the implementation of the scheme;*
- *cooperation and information sharing on implementation problems;*
- *encouraging closer cooperation between law enforcement agencies and between customs agencies of participants;*
- *participation in the scheme is open on a global, non-discriminatory basis to all applicants willing and able to fulfill the requirements of the scheme;*
- *civil society and diamond industry, non-participating governments and international organizations can participate in meetings as observers.”*

and

“Despite the fact that CITES already includes traceability elements, it may nonetheless be of some value if the relevant SADC MS or SADC as a whole could establish such a scheme with the potential trading partners which other interested parties such as former trading partners or major powers such as the USA or EU could be invited to participate in as observers. This will add a further layer of assurance that no illegal specimens are exported from any participating country or that no illegal specimen can be laundered as a legal specimen. This will not necessarily change the positions of those Parties to CITES that are in principle opposed to all trade in elephants or rhinos.

Establishing such a scheme will create considerable costs to the SADC MS. In the case of the Kimberley Process, such costs were undoubtedly insignificant compared to the high economic value of diamonds and the means that participating countries have of generating revenues from an existing trade in diamonds. In the case of setting up a similar scheme for trade in elephant and rhino products, there is no existing trade that can support such establishment costs.”

Concerning future engagement at CITES (Section 5.2.1) the Advisory Paper provides that:

“Submission of further trade proposals

- I. It seems futile to submit further elephant or white rhino trade proposals in the short or medium term, if these were to follow the form and substance of proposals rejected at CoP17 in 2016 and CoP18.*
- II. Regarding elephant trade proposals, it is most unlikely that anything that the SADC MS could propose would be accepted, except possibly to include a significant benefit sharing dimension involving the African Elephant Fund. Further, a Kimberley Process style traceability or certification system could be of some potential value and could be included in future trade proposals, but on its own is unlikely to sway opinions because there are already traceability and certification elements in CITES and Annotation 2. The addition of a genetic voucher system will add an additional layer of traceability that is not part of any CITES or Annotation 2 requirement.”*

Thus, the introduction of a traceability system was seen as potentially valuable (together with other measures) in unlocking the current stalemate but it may not be able to address the *“real obstacle facing such trade is not the issue of illegal specimens being traded internationally or as part of legal consignments or the fraudulent use of export permits for illegally obtained specimens, but the convictions held by the majority of CITES Parties that legal trade will stimulate illegal trade or alternatively, that it is immoral to trade in elephants and rhinos.”* The SADC MS have nevertheless agreed that this avenue should be pursued.

Current status of traceability discussions in CITES

A considerable proliferation of work on traceability systems for wildlife products within and outside CITES has occurred before and since the Advisory Paper was prepared for the SADC Secretariat. This should be seen as a welcome development in that the CITES Parties and Secretariat have gained familiarity and in some instances working experience with traceability systems that go far beyond the normal permit and marking systems for products in trade. This obviates the need for the SADC MS to have to convince other Parties of the value of traceability systems or even to refer to the Kimberley Process as a model traceability system. The Kimberley Process would at best be remote to the wildlife departments that operate in CITES as Management and Scientific Authorities and the many civil society organizations that participate in CITES affairs.

It is further advantageous to SADC MS to build on the work already done in CITES on traceability rather than couch any new traceability system in terms of the Kimberley Process. Extensive documentation has been developed in CITES on

traceability systems and while a comprehensive coverage of such cannot be given in this concept note, key aspects are highlighted in this Section.

The most recent documents developed and decisions taken by CITES on traceability culminated in *Document CoP18 Doc. 42 (Rev.1) Traceability* which summarizes the work done by the Animals Committee and the Standing Committee ((through a working group which was supported by a consultancy done through the United Nations Conference on Trade and Development (UNCTAD)'s Biotrade initiative)). In this process, some key outputs were developed (but it should be noted that not all of these were covered in detail in *Document CoP18 Doc. 42 (Rev.1) Traceability*, various Standing Committee documents also have to be referred to, a list of which could be provided if requested):

a) Working definition of traceability for CITES

The following working definition of traceability for CITES has been proposed, based on an assessment of how traceability has been defined by other organizations:

Traceability is the ability to access information on specimens and events in a CITES species supply chain.*

** This information should be carried, on a case by case basis, from as close to the point of harvest as practicable and needed, to the point at which the information facilitates the verification of legal acquisition and non-detrimental findings and helps prevent laundering of illegal products. This definition is broad enough to cover the aspirations of SADC concerning a traceability system.*

b) General guidance on the traceability (originally from *SC70.Inf 31*)

General guidance on the traceability concept was developed by the Working Group and provides some useful insights:

“• Traceability should not be regarded as the instrument of choice to remedy possible shortcomings in the CITES permit process and is in itself vulnerable to fraud and malpractice. Rather, traceability should be considered as an instrument to increase transparency and trust in a CITES supply chain and to encourage the application of rules and regulations.

• Implementation of traceability requires application of formalized business processes by the operators in the supply chain, appropriate record keeping and the ability to rapidly exchange traceability information, preferably in electronic format. These conditions may not always be available, in particular during the early stages of the supply chain (capture

from the wild, smallholder farms and nurseries, ..) which are of particular interest for many traceability projects. This severely limits the application of traceability for CITES purposes.

- *CITES supply chains are very diverse and are shaped by many parameters such as species, production methods, applicable regulations and markets. This diversity sets limits to CITES efforts to develop common rules and standards for CITES traceability.*

- *Sharing of information about supply chain events is at the basis of a CITES traceability system. Relevant information should be accessible for stakeholders with a vested interest. It is recognized that access to CITES traceability information is restricted by other, competing factors such as ownership of information, privacy of information, national legislation or security concerns which need to be assessed specially for each CITES traceability system.*

- *A traceability system should cover the complete length of the supply chain relevant for the specific objective of the traceability system. However, it is recognized that factors such as costs, available technology and regal restrictions can limit the availability of capture events in certain parts of a supply chain.”*

- c) Recommendations and guidelines on technical standards that Parties may consider when planning and implementing traceability systems for CITES listed species

Recommendations and guidelines were developed on technical standards that Parties may consider when planning and implementing traceability systems for CITES listed species, shown here to illustrate the complexity of traceability systems and the need to avoid developing a standalone or proprietary traceability system, especially in the context of electronic communication systems:

“The use of a closed, proprietary standard has significant drawbacks especially for systems that are operated for Government agencies:

- *“A proprietary standard leads to single vendor solutions which increases costs for system procurement, implementation and operation.*
- *Once a closed, proprietary standard is implemented, the Government agency is bound to a specific supplier. If that supplier ceases to support the system, closes its business or changes its commercial terms in an unacceptable way, costly transition to another standard and system is required.*

- *Closed, proprietary standards cannot be scrutinised by the international community; their use exposes government agencies to unknown risks in terms of breaches, backdoors to data etc. The lack of transparency also leads to risk of the standard being inadequate in certain situations.*
- *A closed, proprietary standard may not be acceptable to all stakeholders, in particular in foreign markets where the owner of the standard is not represented.*
- *On the contrary, open, international standards provide a basis for interoperability of processes and systems across different stakeholders, organizations and countries. These standards are the basis for the electronic data exchange and collaboration in international trade. As these standards open a global market, many companies develop systems that meet these standards and users have a choice of high quality and competitive products and services.”*

The conclusion was reached that 1) standards are of particular importance for traceability as the purpose of a traceability system is to exchange information on events that took place in a supply chain between many independent stakeholders, both within the country and across borders; 2) electronic systems for collaboration and information exchange in international trade should be based on open international standards; 3) that CITES Parties should use open, international standards when developing traceability systems for CITES listed species; and 4) that Parties should provide information on standards and specifications that are required for authorized external stakeholders to interface their in-house systems with the traceability system.

- d) Recommendations and guidelines to ensure links between traceability systems for CITES listed species and electronic CITES permits

Recommendations and guidelines were developed on the need to ensure links between traceability systems for CITES listed species and electronic CITES permits (which may already be in use by SADC MS or may be used in future along the supply chain of high value wildlife products):

- *“Per definition a traceability system for CITES listed species provides information on specimens and events in a CITES species supply chain. As such a traceability system processes information that is related to the data in electronic CITES permits.*
- *Therefore the traceability standard should be compatible with CITES standards for electronic permit processing. This requirement is reflected in CoP 17 Decision 17.152 f) which requests the Working Group on traceability to take into account the work on e-permitting to ensure links*

between CITES permits and certificates and traceability identifiers.

- *The standard for CITES electronic permits is recommended in CoP Resolution Conf. 12.3 (Rev. Cop 17) para. 3 c) which refers to the CITES electronic permitting toolkit. The CITES toolkit is based on the UN/CEFACT Core Component Library (CCL) which is a large repository of data definitions which covers the requirements of information exchange for international trade, transport, commerce and administration.*
- e) Recommendations to use the UN/CEFACT Traceability of Animals and Fish for CITES traceability

Recommendations were made to CITES Parties to specifically use the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Traceability of Animals and Fish for traceability systems in CITES:

- *“To support the use of its standards in traceability systems that UN/CEFACT developed [noting that UN/CEFACT developed] the Traceability of Animals and Fish standard. Since its creation the scope of this standard has been expanded and now includes requirements for traceability of agriculture produce in general. UN/CEFACT also has agreed to include requirements for traceability in CITES listed species into this standard. The Secretariat provides liaison to UN/CEFACT and participates in the work of the UN/CEFACT Expert Group that develops this standard.*
- *The UN/CEFACT traceability standard fully takes into account requirements of CITES electronic Certificates as well as electronic Phytosanitary certificates based on recommendations of the International Plant Protection Convention (IPPC), Fishery Management Systems using the UN/CEFACT FLUX standard and any other international trade, transport and customs document that use UN/CEFACT CCL message specifications. This ensures that traceability systems built to the UN/CEFACT traceability standard can re-use information from a wide range of documents, permits and certificates used in international trade.*
- *The UN/CEFACT traceability standard² also enjoys support of solution providers as it is built on a GS1 traceability standard. This standard is related to the GS1 Global Trade Identification Number (GTIN8) which can be found as a barcode or RFID9 identifier on nearly any product traded worldwide. GTIN based equipment and systems which is widely used in the transport and logistics industry can be integrated into UN/CEFACT based traceability systems which significantly reduces implementation costs.*

² SC70.Inf. 32. Annex 1 provides information on the UN/CEFACT standard as well as other international standards with relation to traceability that were considered.

- *For above reasons it is recommended that 1) Parties that plan, implement or operate traceability systems for CITES listed species apply, where feasible, the UN/CEFACT standard for traceability of animals and fish and the UN/CEFACT Core Component Library in CITES traceability system to ensure compatibility with electronic CITES permits and international trade procedures, and 2) work with the CITES Secretariat and UN/CEFACT to ensure that CITES traceability requirements are taken into account in future versions of the UN/CEFACT traceability standard.”*
- f) Managerial best practice when planning and implementing CITES traceability systems

It is recommended that CITES Parties should follow whenever feasible the Framework to design Traceability Systems for Cross Border Trade of the United Nations Economic Commission for Europe (UNECE) and specific managerial best practice guidelines when planning and implementing CITES traceability systems (see Document SC70. Inf. 34). The steps below are considered important for the implementation of a traceability system for CITES listed species (and is a type of road map that may generally apply to the SADC traceability initiative):

- *“Development of a high-level policy brief containing an initial traceability architecture for policy makers with a view of securing funds for a feasibility study. The UNECE Framework to design Traceability Systems for Cross Border Trade and related future work of UN/CEFACT on this topic should be used as a guide when describing the architecture of the envisaged traceability system.*
- *Identification of key public and private stakeholders whose involvement is important for the successful implementation of a traceability system for CITES listed species. It is good practice to establish a traceability roundtable that accompanies the process from inception to implementation*
- *A feasibility study that covers the following areas:*
 - *Description of the envisaged project, why it is needed, what it must achieve and who should be involved*
 - *Outline of alternative solution scenarios, their strengths and weaknesses*
 - *Proposal to Policy Makers of a Go/No-go decision for the feasibility*
 - *Identification of a steering committee for the development of the traceability system*
 - *Test of the Policy Claim*
 - *High level scope, objectives, benefits*
 - *Identification of key supply chains*
 - *Identification of key experts*
 - *Lessons learnt (other similar projects)*

- *High level impact study and potential financial models for sustainable operation of the system*
- *Update of the traceability architecture*
- *Proposal for a pilot project, including budget plan*
- *Pilot project that validates the assumptions made in the feasibility study, tests and improves the traceability system proposed therein. The pilot should also be used to obtain better data for an improved impact analysis and to test the commitment of the key stakeholders.*
- *Evaluation of the pilot to make the necessary improvements to the original project specification*
- *A detailed financial plan for the implementation and long term operation of the traceability system including the required contributions of each stakeholder group*
- *A meeting of all relevant stakeholders to confirm final support for the envisaged traceability system (stop/go decision)*
- *Definition of a detailed rollout plan based on the pilot results by delivering the following core components:*
 - *A resource plan (human, financial, technical, etc.)*
 - *A staggered rollout plan (based on geographical location if required)*
 - *A training plan for stakeholders (government officials and private sector)*
 - *A dissemination plan (private sector and general public)*
 - *A support plan (resources for user support in initial stages)*
 - *A governance transition plan i) Implementation and rollout*
- *Consideration should be given to the fact that buy-in from the private sector is key to the successful implementation of any traceability system. Ideally, positive or negative incentives can be identified to motivate the private sector to participate actively in the traceability system.*
- *The formation of partnerships with certification schemes (e.g., BIOTRADE3, FairWild4, etc.) that drive more value to organized, legal and controlled supply chains is one example of a positive incentive. Elements of suitable schemes can be summarized as below:*
 - *Incentivizing greater stakeholder participation and responsibility in better management and recording of species use*

³ BIOTRADE is based in India and may not be an option for SADC-MS to partner with although this is an interesting possibility that can be explored (<https://www.biotradeinternational.com/>). There is nevertheless virtually no information on their website.

⁴ FairWild seems to be limited to trade in plants and fungi (<https://www.fairwild.org/>)

- *Supporting the Nagoya principles by benefit sharing along the value chain*
- *Improving species protection by increasing stakeholder benefits*
- *Aiding the long-term sustainability of wild-harvested species and their habitat*
- *Respecting traditions, cultures and supporting the livelihoods of all stakeholders”*

There may be some redundancies in these lists but the general approach seems to be sound.

Based on the foregoing, CoP18 adopted two decisions on traceability, the only valid Decisions on this matter taken by CITES thus far:

Decision 18.144 directed to Parties:

Parties are encouraged to:

- a. use, where feasible, the working definition of CITES traceability as follows: *Traceability is the ability to access information on specimens and events in a CITES species supply chain**.⁵

Decision 18.145 directed to the Secretariat:

The Secretariat shall:

- a. include the working definition on traceability mentioned in Decision 18.144 paragraph a) into the CITES glossary⁶;
- b. continue to provide information on CITES related traceability projects and latest developments on the CITES webpage⁷ on traceability;
- c. continue to provide support to Parties in the implementation of traceability systems involving CITES-listed specimens, subject to availability of external funding;
- d. continue to work with the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) and other relevant standard-setting bodies on the potential for integration of CITES traceability systems into international traceability standards and recommendations for traceability; and

⁵ The Decision as it appears on the CITES web site for unknown reason includes the asterisk at the end of the sentence but not the text that should follow that asterisk: *This information should be carried, on a case by case basis, from as close to the point of harvest as practicable and needed, to the point at which the information facilitates the verification of legal acquisition and non-detrimental findings and helps prevent laundering of illegal products.*

⁶ This glossary (<https://cites.org/eng/resources/terms/glossary.php>) includes the full definition of traceability including the text after the asterisk so it is clear that the wording of the Decision on the CITES web site is incorrect.

⁷ https://cites.org/eng/prog/Cross-cutting_issues/traceability

- e. review reports submitted by Parties on their experiences in implementing traceability and report as necessary to the Standing Committee.

Particularly relevant from these Decisions is that there is no directive to the CITES Parties or the CITES Secretariat to develop traceability systems as such, but that the CITES Secretariat should provide support to Parties developing such systems and continue to work with UN/CEFACT and other relevant standard-setting bodies on the potential for integration of CITES traceability systems into international traceability standards and recommendations for traceability. There is no clear definition of or criteria for a CITES traceability system as such. This may have to be specified in a future Resolution, although the Standing Committee felt that there is no need for a Resolution yet given the state of progress in developing traceability systems. CITES further seems to be a long way from developing and agreeing to a general traceability system for CITES-listed species although in various discussions it has been anticipated that such a general system would be desirable in future.

Conclusions

It should be evident that a considerable amount of work has been done in CITES on traceability systems, involving a number of other bodies including UN/CEFACT and UNCTAD.

The core elements of a traceability system in CITES should be clear from this work and a lot of research that the SADC MS would have had to do has in fact been done and is readily accessible. If the SADC MS wish to propose a traceability system for high value products it could thus build on what has already been agreed in CITES. The SADC MS should preferably pursue an existing traceability framework or system and work with an established traceability organization rather than propose an entirely new system, which is unlikely to get support from the CITES Parties. There are several advantages to doing this including the credibility that would result from traceability done through an independent organization and in particular the one recommended by CITES.

There is furthermore no need for an extensive screening of traceability options. The UN/CEFACT Traceability of Animals and Fish (standard or system) has clearly emerged as the preferred option for developing species-specific traceability systems for animal products covered by CITES.

Importantly, what is outstanding, however, is a specific feasibility study on the traceability requirements for the value chains for high value wildlife species of interest to SADC. Such a feasibility study would examine all the technical requirements and analyze the trade flow or supply chain in high value products from the point of first harvesting or recovery, regional and national registration and storage, sales,

export, import, registration by the CITES Management Authority and Customs of the importing country, distribution of imported products to individual buyers,

processing and product transformation, the mass equivalence rule that would be used to correlate processed products to imported raw materials, and potentially up to the retail stage. The involvement of importing countries would be very important to determine the last stage of control in this supply chain (and for ivory, SADC should ideally press importing countries to include a unique marking system in the final consumer products, e.g. a bar code). There are a number of entities that could be approached to assist with this feasibility study, UN/CEFACT being the most obvious.

A further issue to be considered regarding a traceability system is whether it should include elements of a sustainability and social or community development certification system. This is a matter that only recently gained attention in relation to the possible certification of hunting trophies as resulting from sustainable wildlife management and the possibility of developing a certification system for wildlife products that are produced through national CBNRM programmes that are sustainable and socio-economically beneficial to rural communities. There are similar certification systems for forest products, marine fisheries products, medicinal plants products, and individual species products that are done by several internationally recognized independent certification bodies. It would be advisable to include this option in the feasibility study to further help persuade CITES Parties to support such a system, alternatively, a separate scoping study on this aspect should be done, noting that SADC MS may already have accepted one or more certification system that is locally and socially accepted within that SADC MS.

Recommendations

1. Building on the work already done in CITES on traceability, and thus ensuring the greatest measure of acceptance by CITES Parties of a traceability system for elephant and rhinoceros products, the SADC MS should consider adopting the recommended definition of traceability, and recommendations on international standards, and planning and managerial best practice (outlined in the Section on Current status of traceability discussions in CITES).
2. Based on the outcome of work done in CITES, SADC MS should consider choosing the UN/CEFACT Traceability of Animals and Fish (standard or system) as their preferred option for developing a traceability system for high value wildlife products.
3. In recognition of the complexity of traceability systems, the SADC MS should conduct a feasibility study on an international traceability system for elephant and rhinoceros products that are produced within SADC and traded internationally. This is the key recommendation derived from this concept note.

4. As a first option, the SADC MS should request assistance from the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) to conduct this feasibility study in collaboration with them and with China, Japan and Vietnam (the most likely future importers of elephant and rhinoceros products that are produced within SADC).
5. As a second option, the SADC MS should request assistance from the United Nations Conference on Trade and Development (UNCTAD) to conduct this feasibility study in collaboration with them and with China, Japan and Vietnam (the most likely future importers of elephant and rhinoceros products that are produced within SADC).
6. As a third option and also in the event that either UN/CEFACT or UNCTAD would require funding, the SADC MS should request assistance from one of its existing International Cooperating Partners to enable this work to be done. Participation by SADC MS in the feasibility study implies costs that may not have been budgeted for and further assistance would be needed.
7. To encourage participation in the feasibility study, SADC through an appropriate channel should inform the CITES Management Authorities of China and Japan of its intention to establish a traceability system for elephant and rhinoceros products that are produced within SADC and request their assistance in this regard, including participation in the feasibility study.
8. The SADC MS should inform the CITES Secretariat of its desire to develop a traceability system for elephant and rhinoceros products that are produced within SADC and their intention to request assistance from UN/CEFACT (alternatively UNCTAD) for this purpose and also request the assistance of the SADC Secretariat in line with Decision 18.145 c).
9. The SADC MS should seek assistance from International Cooperating Partners to do a scoping study of international fair trade certification organizations with the aim of identifying potential sustainability and community development certification for wildlife products from SADC including the export of hunting trophies which are crucial for the support of CBNRM programmes in SADC and wildlife producers or wildlife producing communities. Such certification could complement a traceability system and achieve better acceptance of trade in wildlife from southern Africa.

ANNEX 2

An Initial Concept Note for a Traceability System for trade in valuable wildlife products

Introduction

In response to the growing challenges facing environmental protection and sustainable development, Member States of the United Nations have negotiated several Multilateral Environmental Agreements (MEAs) to address these challenges collectively amongst the countries of the world. A multilateral environmental agreement is a treaty, convention, protocol or other binding instrument, set up between three or more countries with the purpose of reaching an environmental goal.

All MEAs have legally binding provisions and most have transboundary dimensions which require a regional approach to be followed by a regional bloc such as SADC. Importantly, SADC with 16 Member States constitutes the second largest bloc after the European Union (EU) among the regional economic integration communities. SADC as the second largest bloc of votes in most MEAs undoubtedly could increase its influence on international processes related to the environment and sustainable development and its impact on the MEAs. This will require a deliberate decision by SADC to make its weight count in these processes; a concerted effort to increase its preparations for engagement in such processes; and a guideline for such engagement. While adopting a guideline is a once off event, the development of a SADC regional common position on key issues in MEAs is open-ended and the need for such is driven by the ever-changing agendas of the MEAs. Considerable commitment and resources will therefore be required to achieve such an objective.

It is further important to note that Africa with its 55 Member States of the African Union (AU) is the largest bloc in the United Nations, UN Conventions and several other MEAs and if Africa can adopt a common position on key issues, it can have a significant impact on decision-making in MEAs. In some MEAs, Africa is the recognized regional negotiating bloc but this does not preclude the need for SADC to engage within the Africa grouping in a unified manner, pursuing an agreed SADC common position within the bigger Africa grouping.

Before going to the Conferences of the Parties (CoPs) for the respective MEAs, SADC Member States have attempted through a series of regional preparatory workshops to find common ground on agenda issues of the CoP. There has

nevertheless been insufficient and inconsistent coordination in CoP preparations, largely due to a lack of resources and the absence of standard approach or guideline. The list of common regional issues which Member States agree upon by consensus through the process of preparatory workshops is referred to as a “SADC Common Position for the CoP”. During a CoP meeting Member States are expected to be guided by the SADC Common Position.

These preparatory workshop approaches improve the active and coordinated participation as well as transparency of voting by countries at the CoP on agreed issues that may have negative or positive impacts on the SADC Member States. Common positions have resulted in high visibility of SADC’s participation at MEA CoPs. However, there is need for a regional guideline to provide a well-informed and streamlined approach for conducting effective preparatory workshops that develop harmonized common positions in preparation of CoPs by SADC Member States. A more streamlined and standard approach will further enhance the impact of SADC common positions in informing the international community about the realities faced and practical solutions as well as defending SADC principles and policies.

This guideline is intended to facilitate the preparation and adoption of SADC regional common positions on agenda items for Conferences of the Parties (CoPs) of Multilateral Environmental Agreements (MEAs) that SADC Member States (SADC MS) are party to. It further aims to enhance the coordination and efficacy of SADC participation in MEA processes and the impact of SADC in the international environmental arena.

The guideline was developed for MEAs in general, noting that there are some specific differences amongst the various MEAs, but the general approach advocated in this guideline will apply to all. Other important international environmental fora such as the UN Environment Assembly (UNEA), the African Ministerial Conference on the Environment (AMCEN) and the IUCN World Conservation Congress each has different procedures and protocols but again the general approach outlined in this guideline should guide SADC participation in these fora.

African Ministerial Conference on the Environment (AMCEN)

The African Ministerial Conference on the Environment (AMCEN) was established in December 1985, following a conference of African Ministers of Environment held in Cairo, Egypt. Over the years, AMCEN has contributed to strengthening Africa’s participation and active involvement both in global negotiations and in international agreements on the environment, as well as adopting and promoting a Common African Position (CAP) prior to the CoPs of various MEAs. AMCEN’s role in African environmental processes includes, among others, providing continent-wide leadership by promoting awareness and consensus on global and regional environmental issues; developing common positions to guide African

representatives in negotiations for legally binding international environmental agreements; promoting African participation in international dialogue on global issues of importance to Africa; and promoting the ratification by African countries of MEAs relevant to the region.

The practice has been that African MS to AMCEN meet at official level prior to meetings of the Ministers to prepare a CAP for their consideration. Such meetings of officials serve as a negotiating platform. Therefore, it is considered important that SADC MS engage in the AMCEN processes, to advance the interests of SADC and promote and support the CAPs for the COPs of various MEAs, even though there may not necessarily be a SADC Common position for these.

If this way of engagement by SADC MS in their individual capacities rather than as a SADC bloc has not presented major difficulties, there may be no need for a separate process within SADC to develop a SADC Common Position. This may apply in particular to MEAs where Africa tends to form a CAP without much controversy. The option nevertheless remains for SADC to decide if it in future would wish to take a SADC Common Position prior to engaging in Africa-wide negotiations towards a CAP.

The AMCEN processes should ideally also be used to resolve regional differences in position on some MEAs such as the Convention on International Trade in Endangered Species (CITES) where Africa has remained divided on key issues. Engagement at AMCEN on such issues has thus far not been effective. The rights-based approach described for engagement by SADC in UN and AU structures in the Advisory Paper on Management and Disposal of Stockpiles of Valuable Wildlife Products (hereafter Advisory Paper), adopted by the SADC Joint Meeting of Ministers responsible for Environment, Natural Resources and Tourism, held virtually on 18th June 2021 as also referenced in the Draft SADC-CITES Engagement Strategy (2022-2026) could serve as the basis for future engagement in AMCEN.

Rio Conventions

The approach thus far followed by SADC MS concerning the Rio Conventions is considerably different from the approach concerning the older MEAs. For the three Rio Conventions, namely the UN Framework Convention on Climate Change (UNFCCC), the UN Convention on Biodiversity (CBD) and the UN Convention on Combating Desertification (UNCCD), it is the Africa Group comprising the Member States of the AU which is the recognised Regional Group under each of these MEAs and not SADC. Each of the three Rio Conventions have their own specific arrangements as outlined below.

It is in the interest of SADC to ensure that the interests and key issues of SADC MS receive consideration and are incorporated within the respective CAPs for the Rio Conventions. In addition SADC MS should also play a key role in advancing the CAPs and key messages for the CoPs of these MEAs and ensure that there is

alignment between the SADC sub-regional issues and the broader key objectives and priorities of Africa. SADC MS should also focus on playing a constructive role in advancing the unity of Africa, and contribute towards Africa speaking with one voice at these COPs, through active engagement and participation in African Regional Group preparatory processes.

It is nevertheless up to SADC to decide if it in future would wish to take a SADC Common Position on the Rio Conventions that could feed directly into negotiations towards a CAP.

UN Framework Convention on Climate Change (UNFCCC)

Africa's programme on Climate Change is coordinated through the work of the African Group of Negotiators (AGN) on Climate Change established under the UNFCCC at a technical level, AMCEN at a Ministerial level and the African Union (AU) Committee of African Heads of State and Government on Climate Change (CAHOSCC) at Heads of State level. Since the establishment of CAHOSCC, the regular Ordinary Assembly meetings of the African Union have considered the Report of the Coordinator of CAHOSCC on the outcomes of successive Conference of Parties (COPs) to the UNFCCC as well as the implications of these outcomes for Africa. In terms of process, at a technical level, the AGN develops the CAP for UNFCCC CoPs, presents the key elements of the CAP and key messages to AMCEN for Ministerial adoption and to CAHOSCC for adoption by the AU.

It is thus important for SADC MS to participate effectively in the AGN processes to advance the SADC Common Position within the CAP and ensure alignment and coherence, and for the SADC Ministers of Environment to participate in the AMCEN meetings to adopt a CAP at Ministerial level and actively engage in the African Group Regional meetings at the UNFCCC COPs.

Biodiversity

Africa's engagements on international Biodiversity issues are coordinated through the work of the African Group under the CBD. More recently, an AGN on Biodiversity has been established at a technical level. In terms of process, at a technical level, the AGN develops the CAP for CBD CoPs, presents the key elements of the CAP and key messages to AMCEN for Ministerial adoption. There has not been a SADC Common Position developed for CBD CoPs in the past.

It is thus important for SADC MS to participate effectively in the AGN processes to advance the interests of SADC MS within the framework of the CAP and ensure alignment and coherence, and for the SADC Ministers of Environment to participate in the AMCEN meetings to adopt CAP at Ministerial level and for SADC MS to actively participate in the African Group Regional meetings at the CBD CoPs.

Desertification

Africa's engagements within the UNCCD are coordinated through the programme of work of the African Group. Key issues for Africa for UNCCD CoPs are presented to AMCEN for adoption at a Ministerial level. There has not been a SADC Common Position developed for UNCCD CoPs in the past.

It is thus important for SADC MS to participate effectively in the in the work of the African Group to advance the interests of SADC MS within the framework of the CAP to ensure alignment and coherence, and for the SADC Ministers of Environment to participate in the AMCEN meetings to adopt CAP at Ministerial level, and furthermore, for SADC MS to actively participate in the African Group Regional meetings at the UNCCD CoPs.

Operational cycles of MEAs and entry points for engagement by SADC

The typical operational or business cycle of MEAs is illustrated in Figure 1. Figure 2 shows the typical activities at different stages of the MEA operational cycle expected from the Member States or Parties. How SADC preparations for CoPs should be scheduled in relation to this business cycle is illustrated in Figure 3. Note that time periods between the different stages and aspects of the cycle will differ amongst MEAs and should be verified for each MEA. Figure 3 thus shows the sequential steps that SADC MS should follow in its preparations of regional common positions and engagements at MEAs. Detailed aspects of these steps are presented in the section on Objectives for SADC concerning the development of regional common positions and engagements at CoPs.

Some MEAs have other structures that meet to consider some agenda items that would later on be decided at CoPs. These for example include meetings of permanent committees dealing with specific technical subjects such as the Subsidiary Body on Scientific, Technical and Technological Advice and the Subsidiary Body on Implementation in CBD or the Animals Committee and Plants Committee in the CITES. In addition, CITES has a Standing Committee that oversees the business of the Convention in between CoPs and also generates items for decision-making at the next CoP. All SADC MS can participate in the meetings of this Standing Committee. Some MEAs also have temporary structures such as the Open-ended Working Group on the Post-2020 global biodiversity framework in CBD that may have several meetings over several years before an issue is referred to a CoP for decision-making.

SADC has opportunities for engagement at all of these structures and can use a SADC Common Position as the basis for that engagement. Importantly, all of these structures meet in advance of CoPs which provides more time for negotiation but also requires consultation amongst SADC MS before such engagement. The business cycles of these other structures are not shown in Figures 1-3, but should be kept in mind.

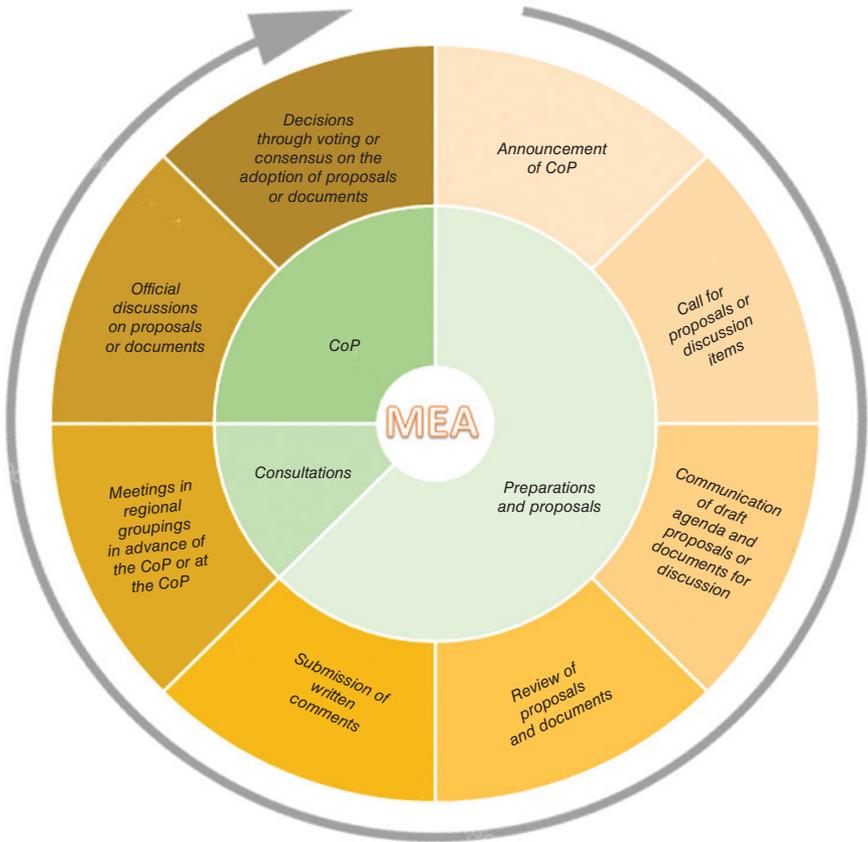


Figure 1 Operational cycle of a typical Multilateral Environmental Agreement

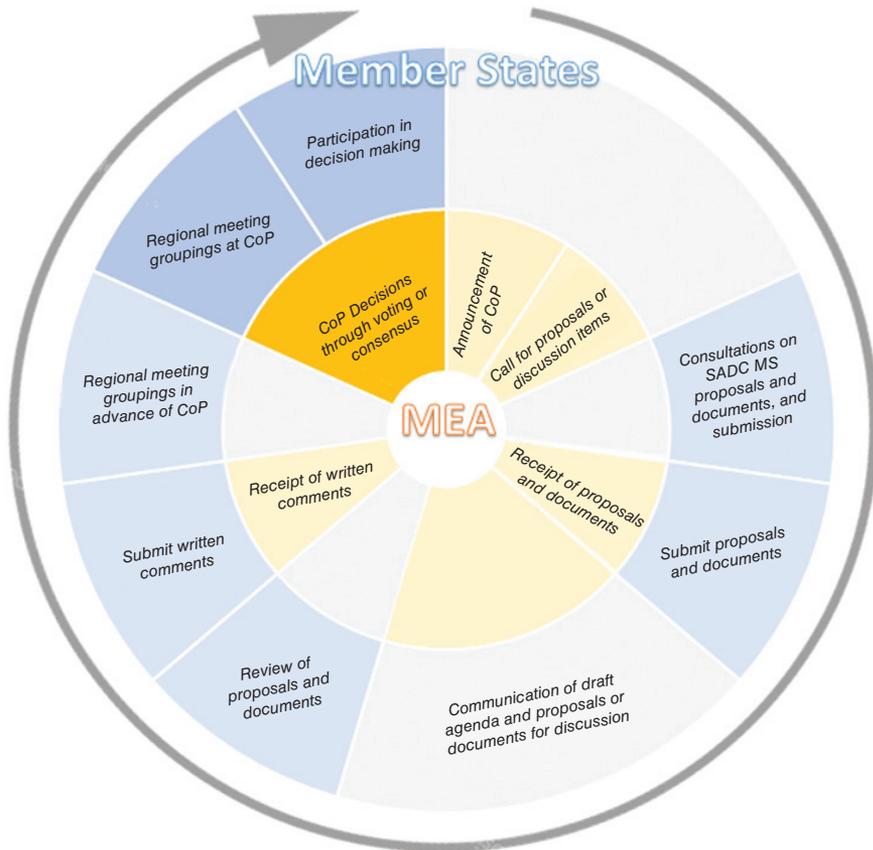


Figure 2 Operational cycle of a typical Multilateral Environmental Agreement (inner circle) and Member States (or Parties) activities (outer circle)

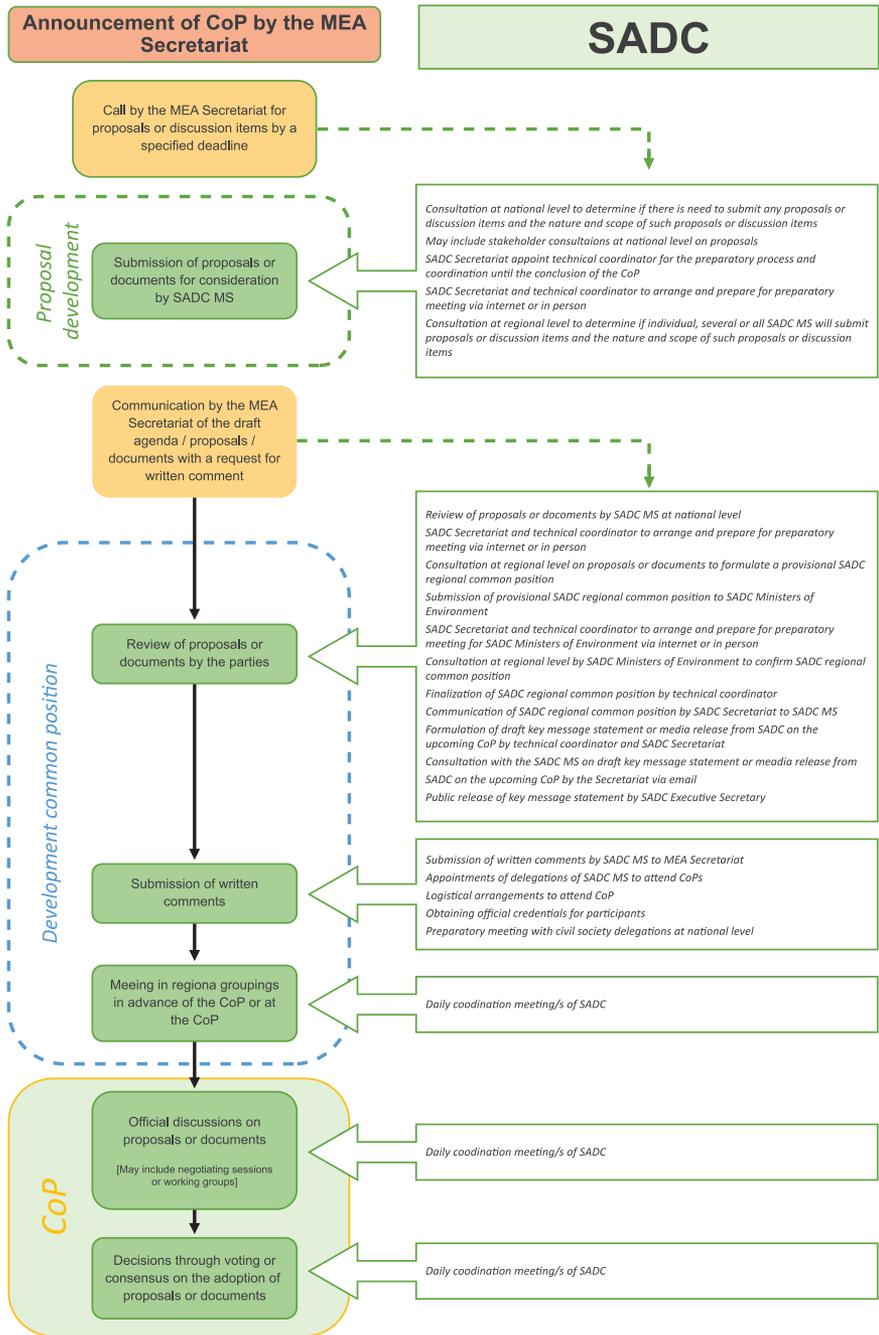


Figure 3 Flow diagram of a typical Multilateral Environmental Agreement (left) and the required steps to be taken by the SADC Member States (right)

Objectives for SADC concerning the development of regional common positions and engagements at CoPs

The following objectives have been set for the development of regional common positions and engagements at CoPs and guidance on their achievement are provided.

OBJECTIVE 1: Enhancing coordination within SADC regarding preparations for MEA CoPs

To mitigate the risk of ineffective coordination that is caused by:

- dissimilarity of experiences, aspirations and ambitions amongst SADC MEA focal points;
- high turnover amongst focal points; and
- inadequate preparation at national level;

which were identified as the primary causes for ineffective coordination at national level, SADC MS should:

- assign staff members as focal points for each MEA, using experienced and well-qualified staff or ensuring that where focal points are mostly junior staff, that a capable supervisor oversees their work;
- fully integrate implementation obligations concerning MEAs in annual workplans;
- require that focal points participate in all training programmes occasionally offered by MEAs;
- strengthen the capacity of the SADC Secretariat to plan MEA-related meetings on time; and
- allow a direct line of communication between the relevant SADC Secretariat technical officer responsible for a particular MEA and the SADC MS focal points for that MEA.

OBJECTIVE 2: Enhancing the quality and relevance of SADC regional common positions

The quality and relevance of SADC regional common positions will be enhanced through:

- thorough research and in depth analysis on the issue at hand, including familiarity with all MEA documents on the issue including all previous proposals and decisions;
- a well-coordinated consultative process within SADC, commencing as soon as possible after CoPs are announced, requests for proposals have

been received or after an agenda and working documents have become available. Unless MEAs have a system of notifying focal points for such, individual focal points should habitually visit the relevant MEA websites;

- SADC focal points for individual MEAs establishing their own group communication channels for the sharing of information, papers and opinions. This can be achieved through the establishment of a group email address and a social media group. Internet teleconferences have become invaluable in the conduct of work during the COVID-19 pandemic, and this modality of work can be used for the consultative process. The SADC Secretariat should provide the technical support for such;
- tasking credible technical expertise outside the relevant government entities to do the required research and summarize the issues as the basis for discussion by the SADC MS. Such technical expertise could be recruited within the SADC region on a short term basis linked to a MEA business cycle (see Figures 1-3), noting that where external technical input is not possible, there is no other option than the SADC MS doing this work themselves;
- strengthening the capacity of the SADC Secretariat to both coordinate the process and to contribute to the analysis of issues and formulation of common positions. It is nevertheless unlikely in the short-term that there will be sufficient technical capacity in the SADC Secretariat. One option in this regard is to make use of young but qualified interns to assist;
- prioritization of MEAs that require formal SADC common positions, in light of resource constraints;
- some degree of prioritization withing MEA agendas in light of resource constraints but not entirely excluding administrative, planning, reporting and compliance aspects of MEAs which typically get less attention from developing countries but have systemic impacts on both the MEA and the region.

OBJECTIVE 3: Enhancing the effectiveness of Preparatory Meetings

To enhance the effectiveness of preparatory meetings for major MEA processes, and mitigate the risks caused by:

- inadequate funding to attend preparatory meetings and the lack of attendance by some Member States;
- inadequate preparation for such meetings;
- some Member State representatives not being able to give national positions on key issues;
- preparatory meetings being arranged too late in the process or being too short or too long;
- language barriers (e.g. documentation and presentations not being available in all three working languages of SADC or lack of interpretation); and
- proceedings potentially being dominated by some Member States;

the SADC MS and the SADC Secretariat should adopt the following practices:

- the use of internet teleconferencing will largely overcome the limitations on funds to attend preparatory meetings and the length of meetings, as the participants themselves can decide on the length;
- internet teleconferencing can be done with interpretation into all the official languages of SADC. More attention is needed to ensure that conference materials are available in all official languages. It is advisable that the SADC MS agree to use informal but increasingly good machine translations of working documents or PowerPoint presentations, neither of which are official SADC documents at that time;
- adequate preparation for preparatory meetings is essential, both at national level as well as for the conduct of the meeting itself;
- adequate preparation can be achieved by making use of a technical specialist, advisor or coordinator appointed by SADC to support the preparatory process;
- invitations to Member States to participate in preparatory meetings should be accompanied by advice to avoid that people who have no familiarity with and no direct work responsibility for the subject should participate and the desired level of seniority. Focal points should always participate and it is unavoidable that the seniority level of focal points will differ from country to country. In some instances it would be very desirable to have other technical persons or representatives from the foreign affairs ministries/departments participate as well. It is not advisable if only representatives from the foreign affairs ministries/departments participate without technical officials from the line ministry/department, or only persons e.g. advisors to Ministers to participate without technical officials from the line ministry/department; and
- to ensure the effective management of preparatory meetings, internet-based or in-person, high quality chairing is essential. The practice is that the Member State currently chairing SADC should chair all subsidiary meetings, making it therefore essential that the currently chairing Member State should 1) ensure to allocate an experienced chairperson for such meetings, and 2) ensure that this person is available to participate in all such meetings. An alternative is to make use of the troika arrangement to find a suitable chairperson.

To address the risk that national focal points are not able to articulate representative national positions at preparatory meetings, focal points should arrange multi-stakeholder consultations at national level to tease out country positions on specific subject matters, which will avoid that national positions cannot be expressed or that the views of the focal point are taken as the national position. Participants should be familiar with their national positions and given a clear mandate to express these. National positions can be qualified as provisional or undecided when necessary.

OBJECTIVE 4: Balancing national positions and interests in relation to MEAs and regional common principles

It is a reality that there is variation between national positions and interests in relation to MEAs and regional common principles in all or some Member States. Differences between national position and regional positions can be resolved by having better and more candid technical discussions at preparatory meetings guided by SADC policies and informed by global trends; updating where necessary SADC policies and plans to better reflect current situations on important issues in MEAs; and referring contentious issues to the Ministers responsible for environment.

OBJECTIVE 5: Dealing effectively with lack of consensus

In situations where no consensus can be found during the preparatory process or at CoPs when new issues emerge, internal consultation is likely to resolve most such cases, but a common understanding is needed to facilitate such resolution, or in the worst case, have an agreed approach when no resolution can be found.

If SADC Member States cannot reach consensus on an issue, this does not mean that they should abstain from discussions on that issue at the CoP. They should be able to express their national positions even if these are in conflict with other SADC Member States, but they should not portray their national position as a regional common position. It would be important for the SADC spokesperson to state that SADC does not have a collective position on that issue.

This scenario should nevertheless be avoided as far as possible. It erodes the stature of SADC internationally; it highlights divisions amongst its members; and it seriously harms the ability of SADC to effect a desired outcome at a CoP.

OBJECTIVE 6: Dealing effectively with non-adherence to common positions

Situations may arise where Member States do not adhere to common positions. This type of situation – likely to be rare - can present a real dilemma for SADC and derail its objectives and harm relationships amongst Member States. Importantly, it is also hugely harmful to SADC's reputation internationally and highly detrimental to the negotiating power of SADC and humiliating to the SADC spokesperson on that issue. Non-adherence to common positions should thus be avoided at all costs and there should be serious consequences if this were to happen in public at international events such as MEA CoPs.

The root causes of non-adherence may be complex, but lack of participation and candour at preparatory meetings may be to blame. Overall improvement in the holding of preparatory meetings as discussed above should be able to address such potential harmful factors.

The outcomes of preparatory meetings at the technical level are in most cases not the final SADC common position. A second cause could thus be non-acceptance or non-adherence of a proposed common position at the political level in one or more Member State. For this reason it is important to have Ministers also participate in the finalization of an agreed SADC common position, whether by meeting in person, meeting on the internet or by round robin.

If any Member State were to change its position after such an engagement, it must timeously inform the other Member States and the SADC Secretariat of its change of position, to create room for further engagement or to at the very least allow for a tactical approach at the CoP to avoid embarrassment to SADC.

A third cause of non-adherence could be the impact of lobbying or negotiation at CoPs. The pressure from NGOs and other Parties at CoPs could be intense. To mitigate such, it is vital that SADC MS negotiate together and not separately, and that NGO positions or pressures are discussed collectively.

The way that Member States are represented at CoPs is very important. It is highly advisable that persons, including political leaders, do not attend CoPs and speak on the SADC position or their national position without being 1) thoroughly briefed on the importance of projecting SADC consensus to external audiences and 2) thoroughly familiar with the SADC common position.

It is also very important that regular coordination meetings of SADC should be held on the margins of CoPs to reaffirm SADC regional positions. It is in these coordination meetings that Member States can if so warranted negotiate or indicate their change of position, and be persuaded to adhere to common positions.

Non-adherence to common positions within a regional economic community such as SADC is such a serious matter that there have to be consequences and personal accountability. Non-adherence should be taken up by the Executive Secretary with the relevant Minister and if need be to report the matter to the Summit.

Safeguards to prevent this harmful situation would be to ensure that common positions agreed within SADC at technical level be presented for endorsement to Ministers of Environment first and foremost; and if the common position is not endorsed unanimously, on very important issues with serious economic or political consequences for SADC, to the SADC Council of Ministers and ultimately the SADC Summit.

Consideration also should be given to the possibility of publishing agreed SADC common positions. Doing so will make it harder for Member States or their representatives to disown a common position, and it further serves to inform the public and the international community of the SADC stance on issues. Other large economic groupings such as the EU or large economic powers such as the USA do this, but not necessarily on all agenda items, specifying that some issues require

further negotiation. The disadvantage is that in some instances advance notice of the SADC regional common position may undermine negotiations or create further debate and polemics from those that were not part of the consultative process. Both options have advantages and should be applied in individual situations based on collective judgement.

A further tool identified through the questionnaire survey is the use of key messaging. This is a useful way of communicating general positions, principles, points of emphasis and desirable outcomes on international processes. Some SADC MS (and other countries) already employ this method, but it could be done at SADC level as well through a communique.

OBJECTIVE 7: Effective engagement and negotiation with other regional groupings

Engagement and negotiation with other regional groupings are important parts of the MEA process. It is also the first test of a SADC regional common position against an external audience. SADC has generally been able to maintain and defend its common position when engaging larger regional groupings. The practice of communicating SADC regional common positions at larger regional groupings by a single representative of SADC is effective and should be maintained. This role should generally be played by the SADC MS chairing SADC at the time of the meeting, but the chairperson should be supported by other SADC MS as may be required.

The dynamics within Africa in some MEAs are often difficult and in CITES in particular. When different groupings in Africa are as divided on key issues as they are in CITES, little can be achieved at the technical level. In such instances the role of the African Ministerial Committee on Environment (AMCEN) and the African Union (AU) become very important for engagement at the political level.

There are important political points that can be made at the level of AMCEN and the AU, which SADC has not previously done. Africa has already agreed to very important principles that must guide its engagement on problematic issues concerning natural resources based on sovereignty including sovereignty over national resources and their disposal¹, promoting international economic cooperation based on mutual respect², equitable exchange and the principles of international law³, and recognition as a human right the freedom to dispose of their wealth and natural resources and that in no case shall a people be deprived of it⁴.

1 Revised African Convention on the Conservation of Nature and Natural Resources (preamble)

2 African (Banjul) Charter on Human and Peoples' Rights Article 21 (3)

3 Revised African Convention on the Conservation of Nature and Natural Resources (preamble)

4 African (Banjul) Charter on Human and Peoples' Rights, Article 21 (1)

OBJECTIVE 8: Effective engagement and behaviour at CoPs

SADC should strive to achieve to have two overarching objectives with engagements at CoPs, i.e. 1) to achieve its negotiating objectives and avoid that harmful decisions are taken; and 2) to build on the good international reputation that SADC already has as a means of expanding its stature and influence internationally.

SADC common positions should be communicated at CoPs by a single representative of SADC who generally should be the SADC MS chairing SADC at the time. It is thus very important for SADC MS chairing SADC at the time of important international processes and MEA CoPs to be represented by very capable persons and for the other member states and the Secretariat to work closely with designated chairs. Although the lead should be taken by the chairing country, there is always room for additional support and emphasis by representatives of other member states.

Some MEAs have voting procedures, and how the SADC region exercises its votes should 1) be guided by its common position on issues and 2) the principle of maintaining solidarity at all times. SADC MS should never vote against each other, as a matter of principle and based on the solidarity and cooperation towards a common purpose enshrined in the SADC Treaty. It is a moral duty to vote the same as other SADC MS even if there is a secret ballot. If SADC MS cannot maintain a common position, they should rather abstain from voting altogether.

Some MEAs operate by consensus and no voting is done. In this situation SADC MS should never speak publicly in opposition to other SADC MS. While every Member State has the right to speak, coordination is key to express solidarity to external audiences (and leaving differences for internal discussion).

Daily coordination meetings at CoPs help maintain cohesion and coordination amongst SADC MS. Support from a technical specialist, advisor or coordinator appointed by SADC in such a role is also considered to be beneficial in ensuring coordination and preparation at CoPs.

OBJECTIVE 9: Enhancing coordination between SADC governments and civil society in relation to MEAs

MEAs generally provide for participation by civil society (NGOs) and communities at some or other level. There is a growing presence of SADC-based NGOs and community organizations at MEA CoPs and there is thus a need for coordination and cooperation between SADC MS representatives and such entities to avoid contradictory or conflicting approaches and statements. The majority of questionnaire respondents agreed that there is adequate coordination and adequate explanation of government positions to them. There is nevertheless a need to better coordinate communities in the region as not all Member States have assisted communities in particular to attend and participate in MEA processes. It is important that in-country consultation occurs before the CoP between MEA focal points and civil society delegations attending MEA events, to explain key issues and procedures.

Civil society can strengthen SADC negotiations but support from civil society should not be taken for granted. Other regional groupings have experienced embarrassing situations where NGOs from those regions have publicly contradicted what their governments have said at MEAs. It is thus worth investing in the relationship and staying in contact with other entities from SADC during CoPs.

Conclusion

This guideline should be periodically reviewed and updated as the SADC Member States may require.



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