



# Workshop on National Legislation and Institutions for Environmental Disasters in Selected Countries in Southern Africa

## Workshop Report



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**Organized by the Ministry of Tourism, Environment and Culture and the  
United Nations Environment Programme (UNEP)  
Maseru, Lesotho, 18 - 20 February 2004**



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## **I. Introduction**

1. Effective prevention, preparedness and response to environmental emergencies can be achieved best in the presence of strong legal and institutional frameworks for disaster management at the national, subregional and regional levels. This requirement forms the basis for the development of appropriate national, subregional and regional environmental emergency plans and at the same time serves as the legislative authority for national and community level measures and effective systems for the prevention, preparedness and response to disaster events implemented by various Governments and community agencies involved in disaster management.

2. Disaster risks and vulnerability nexus remain a major problem in many countries in Africa. There is therefore a need for clear understanding of the inter-linkages between environmental degradation, natural resources management, natural and technological disaster risks and vulnerabilities, and for environmental emergency prevention, preparedness, response and mitigation. Although there is awareness of the necessity to develop suitable legal frameworks with institutional arrangements to address environmental emergencies, the vicious cycle of lack of capacity which allowed environmental destruction to proceed unabated with its attendant disaster risks and vulnerabilities, is still a major burden to many countries in Africa. For example, the officials who bemoaned the destruction of the environment and natural resources that predisposed the people to disaster risks and vulnerabilities, were the same officials who issued licenses for such destruction, clearly exploiting the absence of or weakness in environmental emergency law and the machinery for its implementation.

3. There is increasing interest in African countries in the development of environmental law as part of the global exercise in the promotion of sustainable development. The policy governing environmental law in Africa has generally followed sectoral patterns. In a number of countries, however, individual laws put in place by the various ministries were linked together by blanket legislation such as the environmental framework laws, and new legislation was constantly being implemented to cover a diversity of environmental issues, such as desertification, environmental impact assessments (EIAs) and biodiversity. The Partnership for the Development of Environmental Law and Institutions in Africa (PADELIA) implemented by the United Nations Environment Programme (UNEP) in partnership with donors was therefore initiated in 1994 to strengthen environmental legislation through awareness-raising, capacity-building and the training of national experts in the formulation of environmental legislation. Comprehensive legislation for environmental disaster management, however, was either lacking or limited in scope in many countries in Africa. Accordingly, the present workshop was organized within the framework of PADELIA as a starting point for educating and building awareness of the need to develop, harmonize and incorporate environmental laws and institutional arrangements into environmental disaster prevention, preparedness, response and mitigation.

4. The workshop was organized by the Government of Lesotho and the UNEP Division of Environmental Policy and Implementation in Maseru, Lesotho, from 18 to 20 February 2004. It was attended by representatives from Botswana, Malawi, Mozambique, Swaziland and Lesotho, as well as by a representative from the Africa office of the United

Nations Inter-Agency Secretariat of the International Strategy for Disaster Reduction (UN/ISDR) in Nairobi, Kenya. The participants were drawn from the Ministry of the Environment, the Attorney General's Office and from government agencies or authorities and local non-governmental organizations in the field of disaster management. A detailed list of participants is provided in annex II to the present report.

## **II. Proceedings of the workshop**

### **A. Opening ceremony (agenda item 1)**

5. The opening ceremony was chaired by Ms. 'Makhiba Tjela, Acting Director and Principal Environment Officer (Legal) of the National Environment Secretariat in the Lesotho Ministry of Tourism, Environment and Culture.

6. The workshop was officially opened by Mr. Jobo Molapo, Acting Principal Secretary of the Ministry of Tourism, Environment and Culture.

7. In his opening statement, Mr. Molapo declared that the workshop was being held at an opportune time because most of the Southern African Development Community (SADC) subregion was facing severe drought and HIV/AIDS disasters, which had devastating effects on the population, the environment and national economies, and that those disasters were closely linked to the increase in environmental degradation, poverty and rapid industrialization and compounded by shrinking public budgets. The greatest victims of disasters, he said, were the poor, and he cited the case of Lesotho where on 11 February 2004 the Prime Minister had declared a state of emergency in national food security, stating that about 600,000 people in Lesotho needed food due to severe drought resulting in crop failure and further exacerbating HIV/AIDS pandemic.

8. He emphasized the role of the Lesotho Disaster Management Act of 1997 and the Environmental Act of 2001 in the management of disasters. He drew special attention to the administrative structures – the Disaster Management Authority, the Inter-Ministerial Relief Task Force, the district disaster management teams and the village disaster management teams – which had already been established in line with the provisions of the Disaster Management Act. Moreover, the state of emergency in national food security had been declared in accordance with both the Disaster Management Act and the Constitution of Lesotho. He emphasized that the Act concentrated on disaster prevention, preparedness, early warning, response and mitigation, and reiterated that this was the focus of all the SADC member States. Given the cross-cutting nature of disasters, a spirit of partnership and cooperative governance between government institutions were very important for efficient disaster management and effective coordination.

9. He also referred to the poor cooperation and coordination between regional neighbours during disaster events; this was worsened by delayed responses and uncoordinated response systems in providing assistance to disaster affected areas. He therefore called on SADC member States to create protocols for cooperation between countries and for the sharing of data; also to be more efficient in the sharing of early warning information which would facilitate the development of precautionary measures in the event of epidemics, insect infestations and hydrological disasters. He noted, moreover,

that regional cooperation could be achieved through agreements on emergency preparedness and response, which should include the movement of people, vehicles and equipment across borders.

10. Equally importantly, he indicated that implementation of the provisions of the Disaster Management Act of 1997 was the biggest challenge to the country and called, as a matter of priority, for the development of regulations and by-laws for effective implementation of the Act and also for the development of environmental guidelines under the Environment Act of 2001. He also referred to the need for capacity strengthening of the institutions established within the framework of the Disaster Management Act and of local communities, if there was to be effective disaster prevention, preparedness, response, recovery and mitigation.

11. Finally, he expressed his Government's gratitude to UNEP for organizing the workshop and for the technical assistance provided for the development of the Disaster Management Act of 1997 and the Environment Act of 2001 under PADELIA; he also emphasized his Government's commitment to subregional cooperation in the area of disaster management.

12. Mr. James Kamara, Programme Officer in the UNEP Disaster Management Branch made an opening statement on behalf of Mr. Svein Tveitdal, Director of the UNEP Division of Environmental Policy Implementation and Division of Environmental Conventions.

13. In his statement, Mr. Tveitdal expressed his gratitude to the Government of Lesotho for giving UNEP an opportunity to assist in organizing the workshop in Maseru and added that the presence of participants from the selected countries was symbolic of their mutual endeavour to work together in finding solutions to the environmental problems brought about by natural and technological disasters. He noted that Africa was rich in environmental resources – land, forests, water, flora and fauna – all of which formed part of the region's great heritage of biodiversity, but which was under constant threat of destruction. He stated that, as a result, Africa continued to face daunting environmental problems such as land degradation, deforestation, water stress and scarcity, the erosion and degradation of coastal and marine areas, the loss of habitats and species, the prevalence of floods and droughts, and armed conflicts. These and other problems contributed to the environmental changes that were exacerbated by underdevelopment, poverty and food insecurity in many parts of the region. Tackling Africa's environmental problems and the attendant natural and technological problems was therefore not just advisable but crucial to the achievement of sustainable development, without which poverty would continue to worsen, thus contributing to even worse exploitation of the environment and putting the people at risk of more severe and more frequent disasters.

14. He informed the participants that there was an increasing interest among African countries in the development of environmental law as part of the global exercise in the promotion of sustainable development and in the management of disasters which have serious impact on people, economies, health and the environment. Solutions for the effective management of disasters such as floods, droughts, oil-spills, chemical spills, dangerous gas releases and radiological accidents all had legislative and regulatory

consequences and requirements within which all spheres of government, the community and the various agencies concerned could operate in the event of a disaster.

15. He noted that this was why the workshop had brought together experts not just on disaster management alone, but also on the legal and regulatory requirements for effective disaster management, and that there was an awareness that once a national state of disaster had been declared, an extremely wide range of public and private responses must be put in place. The effectiveness of those responses would depend on the existence of appropriate laws and coordination mechanisms.

16. Workshop discussions, he stressed, would therefore focus on the exchange of information and the sharing of experiences and lessons learned in the development, implementation and enforcement of laws on environmental disaster management. He felt that dialogue should be initiated on the possibility of building on any existing legislative frameworks in the countries represented and using this to model specific legislation on disaster and environmental emergency management at national and subregional levels. The topics for discussions in the workshop had been carefully selected with that in mind and also to start the process of interactive dialogue that would help boost understanding of the legal and institutional machinery to ensure the prevention, preparedness for, response to and mitigation of disaster events.

17. Finally, he reaffirmed that UNEP firmly believed that appropriate laws for disaster and environmental emergency management were important at the national, subregional and regional levels and saw PADELIA as an instrumental framework on which African countries could develop appropriate laws for effective and coordinated implementation of the spectrum of actions normally taken in the event of a disaster. The success of the workshop was therefore key because it could be used as a basis for replication in other parts of Africa.

**B. Organization of the workshop and consideration of the agenda and programme of work (agenda item 2)**

18. The workshop was organized around four main areas which are crucial to the development of legislation on environmental disaster management: Identification of current dedicated law, different pieces of legislation, legal frameworks or any other legal arrangements applicable to countries which do not have legislation in place; Identification of existing institutions which could be used for the development and effective implementation of legislation on environmental disaster management; Identification of coordination and cooperation systems at the subregional level and examining how they can be incorporated into the global picture; Identification of legal considerations concerning environmental disaster management governance, such as access to information on disaster management; the creation of a working environment that allows for transparency; the participation of all stakeholders in an equitable, regulated and democratic way, and recognition of the links between poverty and environmental disasters.

19. Workshop discussions focused on interactive dialogue among the participants in examining various disaster management acts promulgated by countries such as Lesotho

and Malawi and other mechanisms for countries without comprehensive legal arrangements, such as Botswana, Mozambique and Swaziland. The discussions were held in plenary sessions.

20. In addition, interactive working group discussions were held to promote dialogue on the four focal areas and to map out recommendations for effective coordination and legislation on environmental disaster management in the Southern Africa region. Participants were divided into four working groups, so as to reflect more deeply on the issues, with a view to coming up with specific conclusions and recommendations.

21. Mr. James Kamara, Programme Officer in the Disaster Management Branch of UNEP, invited the participants to introduce themselves and then announced the provisional agenda and work programme for the workshop, requesting the participants to review them. The agenda and work programme were subsequently adopted and are set out in annex I to the present report.

### **C. Goal and objectives of the workshop (agenda item 3)**

22. Mr. Kamara continued with a presentation in which he outlined the goal and objectives of the workshop. He explained that the goal of the workshop was to create an understanding of the links between environmental legislation and environmental disaster management: the various elements of disaster management – prevention, preparedness, response and mitigation – had legislative and regulatory consequences and requirements which concerned all those sections of the Government, the local community and the other relevant agencies which had roles to play in the event of a disaster. For all those elements of disaster management to be effective, they must be incorporated into strong legal and institutional frameworks at national, subregional, regional and global levels.

23. He said that the objectives were to bring together experts on environmental legislation and the regulations governing environmental emergencies from the five PADELIA countries to exchange information and share the experiences and lessons they had learnt on environmental laws and institutional arrangements that focused on disaster prevention and risk reduction with a view to: strengthening national and regional environmental emergency preparedness, response and mitigation; familiarizing themselves with and building on current legislation within the selected countries to create environmental emergency management laws that were more relevant and focused; serving as a forum to create sensitivity to and awareness of the links between environmental degradation and disaster risks and vulnerabilities, and encouraging links between the different strands of legislation within the framework of PADELIA.

24. He explained further that the workshop had also been organized in response to the demands of UNEP Governing Council decision 22/8, adopted in February 2003. This decision called for capacity-building to improve the ability of developing countries and countries with economies in transition to prevent, prepare for and respond to environmental emergencies; the initial focus was to be on those regions in most need of assistance, consistent with the implementation plan of the World Summit on Sustainable Development.

25. He ended by stressing that the workshop was expected to identify the strengths and weaknesses of the disaster management acts in force in Lesotho and Malawi and to do the same with the current disaster management mechanisms in use in Botswana, Mozambique and Swaziland which had not yet adopted disaster management acts.

**D. Overview of the work of UNEP on environmental emergencies (agenda item 4)**

26. In his presentation on behalf of Mr. Stefan Micallef, Chief of the Disaster Management Branch in the Division of Environmental Policy Implementation, Mr. Kamara informed the participants that the focus of the work of UNEP in disaster management was to influence and assist countries through assessments, technical assistance, advisory services, production of tools and products, networking, the creation of pilot projects for better prevention, preparedness for, and response to environmental emergencies and disasters with impacts on the environment; this would ensure that the environmental aspects of emergencies were taken into consideration as an integral part of the imperatives of disaster management and response and that these are fully recognized as being critical to human and environmental security. At the same time UNEP was continuing to mobilize and coordinate urgent assistance to countries facing environmental emergencies, by undertaking assessments of the impacts of disasters on the environment and providing tools for spreading information and making Governments and the international community more aware of the environmental dimension of the management of disasters.

27. Appropriate institutional structures to deal with this work exist within UNEP, namely:

- The Division of Environmental Policy Implementation (through the Disaster Management Branch, the Joint Environment Unit of the UNEP and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and the Post-Conflict Assessment Unit) coordinates the activities of UNEP on prevention, preparedness, assessment, response and mitigation.
- The Division of Early Warning and Assessment generates data and information which can be used to support contingency planning processes and assist in the development of preparedness strategies.
- The Division of Technology, Industry and Economics, through its Awareness and Preparedness for Emergencies at Local Level Programme (APELL), which addresses all environmental emergencies related to industrial activities at risk of fire, explosion or toxic release;
- The Regional Seas Programme, which is responsible for supporting, administratively and technically, the Protocols, where they exist, that deal with cooperation in maritime-related emergencies.
- The Division of Regional Cooperation and, more specifically, its six regional offices, play a role in environmental emergencies through the implementation

at regional and subregional level of the global programme of UNEP, thus supporting environmental emergency work.

28. All these structures are involved in capacity-building, awareness-raising and creating understanding of the impact of disaster events on the environment at regional, subregional and regional levels. As a means of promoting understanding of the imperatives of environmental disaster management, UNEP continues to produce a newsletter which focuses on specific disasters. The first issue of this newsletter – Environmental Emergencies News – was published early in 2003. The newsletter serves to disseminate information and make communities more sensitive to the environmental dimension of disaster management, and documents the contribution of UNEP to the field of environmental emergencies. It was widely distributed during the twenty second session of the UNEP Governing Council in early February 2003. The second issue centres on drought as a result of the recent increase in frequency and intensity of drought disaster events; it has already been distributed and will also be posted on the web in March 2004. The third issue will be dedicated to floods.

**E. Creation of an enabling environment for disaster reduction: the importance of legislation (agenda item 5)**

29. Ms. Feng Min Kan, Senior Regional Officer of UN/ISDR, gave a presentation on the creation of an enabling environment for disaster reduction and sustainable development. In her presentation, she outlined the pattern of disaster trends and their impacts both within Africa and on a global scale. She said that disasters triggered by natural hazards were on the increase throughout the world, including Africa, although the number of people killed by disasters had decreased. Disasters set at naught decades of human effort and investments and thus threatened sustainable development, placing an uphill challenge before poverty alleviation and socio-economic development in Africa. In this context, she highlighted the work of UN/ISDR, which aimed at reducing risks and vulnerability to natural hazards and related technological and environmental hazards. She emphasized, among other matters, that disaster reduction was an issue that cut across various sectors and therefore called for multi-level and multi-sectoral cooperation and collaboration and, indeed, a holistic approach to the process of disaster management.

30. She further noted that disasters were an obstacle to social and economic development, but that development itself could sometimes create the potential for disasters. On the issue of investment in sustainable development, she pointed out the urgent need for the integration of disaster reduction into development planning and implementation. Disaster reduction, she added, was linked to key areas of development such as poverty reduction, water resources management, agriculture and land-use planning, climate change adaptation and environmental protection. For effective disaster reduction, she said, Governments needed to create an enabling environment consisting of an improved national policy, strategic planning, legislation and coordination mechanism as well as access to financial resources. She stressed that a clear and comprehensive policy was necessary as a basis for addressing all aspects of disaster risk reduction and its integration into the area of sustainable development. Strategic planning would enable measures for disaster risk reduction to be incorporated into the context of development and of disaster management. A mechanism to facilitate coordination between the various

stakeholders was vital to ensure efficiency and effectiveness in disaster reduction. Human and financial resources had to be taken into consideration for the implementation of cross sectoral measures of disaster risk reduction. In that context, policy and legislation on disaster reduction and its enforcement were crucial, particularly for the integration of disaster reduction into the field of sustainable development.

**F. Background paper on disaster legislation in Africa: Key issues and considerations (agenda item 6)**

31. Mr. Kamara delivered a paper in which he analysed the most common disasters to afflict Africa during the period 1992–2001: 27 floods were reported that affected about 19 million people; 113 instances of drought and famine, which affected about 113 million people; 49 windstorms which affected about 15 million people. Together those events accounted for 89 per cent of all the disasters reported in Africa, not only affecting the lives of millions of people but also having severe consequences for human health, property, infrastructure and the environment. The gains made by development in the countries affected were all at risk from this increase in disasters.

32. He then turned to the concept and principles of disasters and environmental emergencies and their application to disaster management. He stressed that application of that concept and those principles carried legislative and regulatory consequences and requirements within which all spheres of government, the community and various agencies could operate in the event of a disaster. Once a state of disaster or emergency had been declared, a wide range of public and private responses as well as an application of the concept and principles must be put in place. He emphasized that appropriate legislation needed to be in place for effective management of the disaster or emergency event.

33. He briefly enumerated examples of national legislation on disaster management, noting that PADELIA, implemented by UNEP in partnership with various donors, had been instrumental in:

- Raising levels of awareness and sensitivity and building capacity for the development of essential legislative tools to provide norms, rules, procedures and guidelines for the management of environmental resources;
- Encouraging the updating and integration of legislation dealing with environmental resource management;
- Identifying gaps in existing environmental legislation and revising or strengthening national environmental legislation in response to new and unforeseen issues;
- Training of national experts in the formulation of environmental legislation.

34. He then informed the workshop that in June 2002 Kenya had developed a national disaster management policy with the aim of ensuring coordinated and integrated disaster operations. That policy, he said, was to serve as the basis for the enactment of legislative framework through an act of Parliament that would make provisions for the establishment

of a national body to deal with the management of disasters. That would cover prevention and mitigation, preparedness, response, recovery, relief and rehabilitation and reconstruction at national and local levels. It was expected that the promotion of sustainable disaster management systems would reduce the country's vulnerability and exposure to risks. The policy had not yet been implemented, however. For its part, Nigeria had already established its National Emergency Management Agency (NEMA) under decree 12 of 1999 and developed a national response plan which covered fundamental policies, operations, response and recovery actions as well as spelling out the relative areas of responsibilities for NEMA and the private sector with regard to the management of natural and technological disasters.

35. He pointed to the disaster management acts of Lesotho and South Africa of 1997 and 2002, respectively, which could be used as solid frameworks for the development of appropriate legislation for environment disaster management. While both those acts allowed for the establishment of institutions to implement their provisions, neither provided any clear policy on the environmental dimension of disaster or on the management of disaster events that had grave consequences for the environment; this, he said, was a notable omission given that environmental degradation was one of the main causes of increased vulnerability and transformation of natural hazards into disasters. He drew attention to the fact that Malawi had also enacted its Disaster Preparedness and Relief Act in 1991, assigning responsibility for the direction and coordination of disaster management activities throughout the whole country to the Department of Disaster Preparedness, Relief and Rehabilitation in the Office of the President and Cabinet; those activities would comprise the whole cycle of prevention, mitigation, preparedness, emergency response, recovery and rehabilitation.

36. At the subregional level, he cited the efforts of SADC to address disaster management. Its particular focus was on food security and developing an extensive network of cooperation between all the member States to enable better monitoring and advance warning of disasters in the SADC region, such as droughts, floods and pest infestation, that have serious implications for food security. In addition, in 2002 SADC had established a disaster management unit and developed a regional multi-sectoral strategy on disaster management which was approved in August 2002. This, he said, facilitated cooperation between member States on disaster management, especially those that affected more than one country, and serve as a framework of reference for the development of national disaster management policies in those member States where they did not yet exist.

37. He emphasized that SADC also had two protocols related to disaster management which required specific laws and regulations for the implementation of their provisions. The protocol on shared watercourse systems addressed issues relating to the prevention of all forms of environmental degradation arising from the use of the resources of shared watercourse systems and promoted measures to control desertification, soil erosion and sedimentation. That protocol provided for the promotion of measures aimed at flood and drought mitigation and regulation of the flow and drainage of shared watercourse systems. The protocol on shared watercourses provided for cooperation in the implementation of measures to prevent, mitigate and eliminate harmful effects related to shared watercourses that might affect other watercourse States, whether resulting from natural causes or human

activities such as floods, water-borne diseases, siltation, erosion, salt-water intrusion, drought or desertification.

38. The protocols were especially important, he stressed, in terms of the legal issues and implications of disaster management because they clearly stated the institutional arrangements for implementation of their respective provisions and also recognized the need to harmonize policies, legislation and development plans. This, to a degree, encouraged the development of legislation on disaster management at both national and subregional levels, more so where the links between emergencies and environmental degradation had already been taken into account.

39. He highlighted the legal aspects of environmental disaster management, in that certain disaster management issues required one or more of the following: a framework law; specific legislation; modification of specific legislation (for example, modification of environmental impact assessment or land use planning or access to information on disaster management). This, he said, was because any disaster created an extraordinary situation, which demanded an equally extraordinary range of public and private responses. He explained that most of the confusion and lack of coherence that often characterized the aftermath of a disaster arose from the lack of a solid legal framework as a basis for the necessary responses to the disaster. The key issues and legal considerations that must be addressed and incorporated into any disaster management act were:

- **National disaster management law and area of coverage:** a national disaster management law should clearly define the term “disaster”, the scope of the disaster area and the responsibilities and activities of all those involved in responding to a disaster (Government, private sector, community and individuals). This is of particular importance in the event of flood and drought disasters which transcended national boundaries. The recurrent drought and sporadic flooding in some southern African countries – Malawi, Zimbabwe, South Africa, Mozambique – are examples of cases where harmonized laws and measures must be adopted for the integrated management of such disasters;
- **Use of existing river and lake basin legal frameworks:** Africa has a number of shared water resources and a number of river and lake basin plans and organizations which are well suited to serve as key mechanisms or institutions for the development of special legal instruments for fighting the cycle of drought and flood disasters. These include the Zambezi River Authority, the Senegal Basin Organization (OMVS), the Kagera Basin Organization and the Lake Chad Basin Commission, among others. These are important mechanisms and institutions geared towards promoting the coordinated, integrated and environmentally sound development and management of shared water courses and encouraging State parties individually or jointly to take measures to prevent or mitigate harmful consequences, including floods, drought and desertification;
- **Regional environmental agreements and conventions:** In most cases, the most frequent disasters in Africa (floods and droughts) have a regional

dimension and require extraordinary regional and coordinated responses from the countries affected. A number of regional agreements and conventions are being implemented, which can serve as a basis for the development of appropriate national disaster management policies, plans and laws. Although the agreements focus on the marine environment they also cover general conservation of protected areas and contingency plans for marine pollution.

These agreements include:

- Nairobi Convention of 1985, applicable to the western Indian Ocean;
- Jeddah Convention of 1982, applicable to the Red Sea;
- Barcelona Convention of 1976 (with subsequent protocols), applicable to the Mediterranean Sea;
- Abidjan Convention of 1981, applicable to the African Atlantic Ocean;
- African Convention on the Conservation of Nature and Natural Resources, applicable to Africa (amended 1968 Algiers Convention on the Conservation of Nature and Natural Resources).

The services and benefits of regional institutions can be used in the development and implementation of policies, plans and laws, to their mutual benefit;

- **Obligation to notify relevant organizations and countries:** Notification is crucial for coordinated and effective disaster management, particularly where disasters transcend national boundaries. Disaster management laws should therefore specify that it is obligatory to notify the relevant organizations or countries and nominate the persons responsible for that notification. This is a very important provision and failure to implement it could have serious implications, particularly if other countries are affected by the disaster as a result of not being notified, and may result in strong criticism or even litigation at regional and global level;
- **Institutional arrangements:** Disaster management plans always have institutional arrangements and these should be consistent with specific legislation, clearly setting out the responsibilities of each component of the structures at different stages of disaster management so as to ensure the effective implementation of the various obligations;
- **Support services:** Many support services in the field of disaster management are often treated as administrative matters. They should, however, be subject to legislation that would strengthen coordination and implementation of the provisions of a disaster management plan, particularly in the acquisition of facilities and equipment free of duty and other taxes;
- **Legal provisions for disaster management governance:** Disaster management cuts across many areas at national, subregional and regional levels. Many institutional arrangements are put into play to achieve effective disaster management. These must be guided by legal considerations for the

support services and stakeholders and it is crucial that there be access to public information and an enabling environment that allows for transparency and the democratic participation of all the stakeholders in a balanced and regulated way;

- **Legal provisions for funding:** Mobilization and allocation of resources are essential elements of disaster management. When a disaster event occurs there is usually a vigorous initial response, and various forms of assistance, material and financial, are provided to meet the most immediate needs of the affected population (food, water, shelter, medicines and immediate recovery). In most cases this assistance is short-lived. Any disaster management plan must therefore include the establishment of a national emergency and disaster trust fund which would enjoy statutory security and provision for regular appropriations from parliament as well as for seeking donations, gifts and endowments for the investment and security of funds on an international basis to ensure sustainability.

#### **G. Introduction to concepts and principles of law related to disaster management (agenda item 7)**

40. Mr. Laurent Granier, Associate Legal Officer in the Implementation of Environmental Law Branch of the UNEP Division of Environmental Policy Implementation gave a presentation on the concepts of law, principles and definitions related to environmental disaster management. The first part of the presentation was dedicated to the definitions, concepts and principles of relevance to environmental disaster management, the second focused on the different forms and uses of the legislation and the last on the broader aspects of governance to be reflected in legislation relating to environmental disaster management.

41. In his introductory remarks, Mr. Granier made clear to the workshop that by “legislation” a variety of legal instruments should be understood, such as laws, regulations and by-laws. Legislation therefore referred to legally binding instruments, which was not the case for policies, plans or guidelines. As an example of a binding legislation he cited the State of Emergency in National Food Security Declaration declared by the Government of Lesotho on 11 February 2004.

42. Outlining the definitions and concepts, he gave examples of various definitions of disasters employed by different bodies of WHO and of national Governments such as Lesotho, Malawi and Nigeria. The various definitions identified classic elements which included, first, the origin of the disaster (natural or human-caused); second, the geographical scope, using terms such as large-scale, medium-scale, widespread or localized; third, the time range – “any occurrence” or “an occurrence”, etc.; fourth, limitative or non-limitative, open or closed, complete or complementary lists enumerating the types of disasters. He emphasized, however, that these definitions had grey areas, such as the definition of pollution; in Malawi, for example, the definition excludes pollution originating from a State organization. In essence, most of the definitions vary according to the particular situations of individual countries. As a result, the harmonization of definitions at the subregional or regional level can be challenging.

43. He went on to look at the use of various environmental law principles in comprehensive environmental disaster management legislation. He stressed that the prevention principle is the most important one applied to environmental disaster management. This principle can be applied on three levels: disaster response legislation such as rescue organization, early warning systems, risk evaluation systems, etc; medium-term by the incorporation into the prevention principle of legislation from other sectors such as land planning, housing, building, agriculture, land use and water management; long-term by incorporating legislation on climate change and poverty reduction. Furthermore, the prevention principle can be applied a priori as outlined above and also a posteriori as the legal basis for public and private liability and compensation responsibility for non-prevention. In addition, the precautionary principle should be applied to provide a framework for Governments to set up preventative policies in cases of scientific uncertainty, where the existing scientific information is incomplete, for example, the current issues relating to genetically modified organisms.

44. The polluter-pays principle is also relevant to environmental disaster management legislation in creating mechanisms to internalize costs, particularly in the case of technological disasters that may result in direct pollution of the environment, such as oil spills and nuclear disasters. In addition, the polluter-pays principle can be applied a priori by creating a system of taxation on dangerous activities that could cause a disaster. The taxes could, for example, be allocated to disaster prevention or recovery funds. This principle also permits the engagement of a posteriori liability of the polluter or the designated responsible person or institution.

45. He then outlined the different forms of legislation and their uses by Governments. He described an example of comprehensive legislation encompassing all the aspects of environmental disaster management – definitions, concepts, institutional arrangements (committees, task forces, etc), environmental disaster management response systems, as well as medium and long term dispositions. He pointed out that Governments could combine different pieces of legislations and emphasized the need to incorporate environmental disaster management measures into environmental framework legislation.

46. He placed environmental disaster management legislation within the context of governance, noting that the principles and mechanisms of governance were of particular relevance in the field of disaster management as it was a purely human-environmental, transversal issue. He emphasized that any national, subregional and regional legislation should therefore take into account the transversal nature of disaster events and the need for an integrated approach. Given the diversity of issues at stake and the different time scales at issue – short, medium and long term – disaster management legislation should therefore focus not only on immediate disaster response and mitigation but also on prevention, for example by controlling dangerous installations licenses, land planning and natural resources management and climate change. He pointed out that, given the connection between disasters and poverty, the issues should not be tackled separately.

## **H. National disaster management legislation (agenda item 8)**

### **1. Lesotho: Disaster Management Act of 1997– institutions, implementation, lessons learned and challenges**

47. Under this agenda item, Mr. Seoehla Molapo, Senior Economic Planner in the Disaster Management Authority, gave a presentation highlighting the objectives, administrative and institutional arrangements, the specific provisions of the Act as well as its implementation, the lessons learned and the challenges faced by the Government. The administrative and institutional arrangements included the establishment of the National Disaster Task Force, the Disaster Management Authority with its board of directors, the district disaster management team and the village disaster management teams and identifying volunteers at the district and community levels. The Act clearly spells out the powers and responsibilities of these institutions. A disaster management plan and manual have also been developed. The plan is an integral part of the national development plan, while the manual contains procedures for disaster management.

48. Most important, the Act provides for the declaration of disasters by prime ministers in the event of any disaster occurring on a scale that warrants an extraordinary response from outside as well as for the establishment of a disaster management fund. This fund is maintained in accordance with Lesotho's financial regulations and other relevant laws.

49. In the ensuing discussion the main gap identified was the absence of the Ministry of Tourism, Environment and Culture on the board of directors of the Disaster Management Authority and it was felt that this Ministry should definitely be on the board, especially as the most common disasters occurring in Lesotho were closely linked to environmental degradation and poverty.

50. The major challenges in the implementation of the provisions of the Act were identified as follows:

- Strengthening of human resource capacities, including communities and institutions established under the Act, to improve the ability of the country to prevent, prepare for and respond to environmental disasters;
- Translating the Act, the disaster management plan and the manual into the local language (Sesotho) to make them accessible to the public in order to promote understanding of the goals, requirements and benefits of effective implementation of the Act and the plan;
- Developing appropriate and effective early warning systems and information exchange at national and local as well as subregional levels, especially as the disasters experienced by Lesotho transcend national borders. Cooperation on this with South Africa and other countries in the Southern Africa subregion was therefore paramount;

- Developing a regional coordination mechanism for the sharing of technical (including human resources) and material resources in responding to disasters and also for prevention, preparedness and mitigation;
- Although the village disaster management teams have been established, their terms of reference were yet to be developed and their working relationship with the village development council had to be clarified.

**2. Malawi: Disaster Preparedness and Relief Act of 1991 – institutions, implementation, lessons learned and challenges**

51. Mr. Bright S. Mando, Principal Legal Officer in the Ministry of Justice and Constitutional Affairs, gave a presentation in which he stated that the most common disasters in Malawi were floods, hailstorms, landslides, drought, pest infestations, disease epidemics and the HIV/AIDS pandemic. He stressed that all these disasters were managed on an ad hoc basis through a department in the Office of the President and Cabinet. He cited the example, however, of the Phalombe flash flood of March 1991 that had claimed over 500 lives and damaged property worth about US\$500,000, which clearly exposed the weakness of this ad hoc arrangement. A coordinated approach and improved framework for disaster management had been called for, and this had led to the passing into law of the Disaster Preparedness and Relief Act No. 27 of 1991.

52. The Act sets out the administrative and institutional arrangements and the legal framework for the implementation of its provisions; for example, it provides for the establishment of a national disaster preparedness and relief committee consisting of the principal secretaries of all the line ministries, the Army Commander, the Inspector General of Police, as ex officio members, and between three and five non governmental organizations. The committee has the responsibility of providing policy directives on the implementation of disaster management activities to the Commissioner for Disaster Preparedness, Relief and Rehabilitation. It may establish any number of subcommittees to carry out any specific or general functions that it determines. The Act also provides for the creation of civil protection regions and areas and committees to the regions and areas appointed under the direction of the Commission; for example, at district level there are district civil protection committees and below them are area civil protection committees and village court protection committees. Community involvement and coordination of the implementation of disaster management activities is achieved through these committees.

53. In addition, the Act provides for the declaration of a state of disaster by the President of Malawi of any disaster of such a nature and extent of that extraordinary measures are necessary to assist and protect persons affected by the disaster in any area within Malawi or that circumstances are likely to arise making such measures necessary. The declaration would remain in force for a period of three months within a specified area from the date of declaration and the President may from time to time extend such a period by not more than another three months. The Act further makes a provision for the establishment of a national disaster preparedness and relief fund into which Parliament appropriates funds for the implementation of the disaster management activities. The fund may also receive voluntary contributions from any foreign government, international agency or foreign institution or body.

54. He also informed the participants that the Government had embarked on the preparation of a comprehensive disaster management plan in 1996 but that it had stalled in 1997 owing to lack of funding. The plan, however, existed in draft form, and plans were already under way to finalize it. When completed it would serve as a basis for reviewing the Disaster Preparedness and Relief Act to ensure that provisions of the plan were backed by legislation.

55. Discussions on the presentation identified the following gaps in the Act:

- Environmental rights are enshrined in the Constitution but not reflected or cross-referenced in the Act to underline the importance of environmental aspects in disaster management;
- The draft national disaster management plan developed in 1996 and 1997, which is yet to be finalized, does not incorporate the environmental dimension of natural and technological disasters and does not have any legal force;
- There is a lack of effective coordination between the Government and non-governmental organizations in dealing with disaster events, resulting in situations where non-governmental and other organizations deal directly with the affected populations in responding to such events.

56. The major challenges in the implementation of the Act were identified as follows:

- Mobilization of adequate financial resources to meet all needs for disaster management. At present the resources in the National Disaster Preparedness and Relief Fund are unstable, unpredictable and, owing to bureaucratic bottlenecks, difficult to get prompt access to in the event of a disaster;
- The Act focuses mainly on preparedness and relief without giving sufficient attention to the other key elements of disaster management such as prevention, mitigation, recovery and risk reduction. It needs to be revised so that these elements can be fully incorporated into the context of a comprehensive framework, including the environmental aspects of disaster management; and
- Human and institutional capacities remain a major impediment to the effective implementation of the provisions of the Act. Equally, lack of awareness continues to hamper efforts to promote understanding of disaster management.

### **3. Botswana: national disaster management mechanisms – legal, administrative arrangements and institutions**

57. Ms. Joyce Mosweu, Director of the National Disaster Management Office in the Office of the President, delivered a presentation in which she stressed that the most

common disasters affecting Botswana were drought, floods, veld and urban fires, epidemics, animal diseases and pest infestation, industrial accidents and chemical spills. These disasters, she said, caused human and economic losses and severe environmental impacts while seriously disrupting the country's social and economic systems and hampering the hard-won development achievements of the past as well as derailing present and future development. There had been recurrent droughts in the country since the 1980s and the worst floods in living memory occurred in 1999/2000, decimating many parts of the country.

58. She drew attention to the national policy on disaster management approved in 1996, which serves as an important framework for addressing disaster management in the country. This has both administrative and institutional arrangements, for example, the National Disaster Management Office established in the Office of the President and two national committees – the National Committee on Disaster Management and the National Disaster Management Technical Committee. In addition, district disaster management committees have been established at district level and there is an overall National Disaster Relief Fund to which the Government and interested donors can contribute. This fund is used to provide relief (food, shelter, medicines etc) to populations affected by disaster events.

59. The policy also provides for the development of a comprehensive disaster management programme (prevention, preparedness, response, recovery and mitigation), taking due cognizance of reduction of disaster risk and vulnerability at both national and community levels. She referred also to legislation from other sectors: the Waste Management Act of 1998, Diseases of Animals Act of 1997 and the Herbage Preservation (Prevention of Fires) Act of 1978, which, she said, were important because of their connections to disaster management. She ended by informing the participants that the process of developing a disaster management plan was under way.

60. In the ensuing discussion on the presentation, a key gap identified in the policy was the absence of an environmental dimension. The participants felt strongly that this was vital for Botswana, where the most common disasters are hydrological in nature and closely linked with environmental degradation. The main challenges in the implementation of the policy were therefore:

- Reviewing the policy to ensure that the environmental dimension was fully incorporated and ensuring that it was factored into the disaster management plan currently being prepared;
- Developing human and institutional capacities, which was one of the impediments to the effective implementation of the policy and which must therefore be factored into the Disaster Management Plan currently being prepared;
- Facilitating access to the National Disaster Management Office and improving the exchange and flow of information between it and other sectors dealing with specific disasters such as drought, veld fires and animal diseases;

- Translating the policy into local languages to promote understanding of its provisions and better implementation.

#### **4. Swaziland: national disaster management mechanisms – legal, administrative arrangements and institutions**

61. Mr. Jameson Ginindza, Manager of the National Disaster Task Force in the Deputy Prime Minister's Office, gave a presentation in which he said that, although Swaziland does not have any comprehensive legislation for disaster management, it has specific arrangements to deal with disaster events. The most common disasters in the country are drought, floods, bush fires and severe thunderstorms. Owing to the recurrent nature of these disasters and the human and economic losses which the country continues to incur, the Government established a disaster relief fund on 1 April 1992 within the framework of the Finance and Audit of 1967. This was followed by the establishment of a national disaster task force in 1992, which was not backed up by any legal instrument. The task force unit is in the Deputy Prime Minister's Office and serves as a secretariat. It consists of a manager and regional disaster management committees which are responsible for disaster management at regional and community levels. The task force works closely with seven non-governmental organizations, namely; the Red Cross, Lutheran Development Services, Save the Children, Agricultural Christian Action Trust, Caritas, World Vision and the Swaziland Farmer's Development Foundation. The work of the task force is mainly focused on relief distribution to populations affected by disaster events and the other important elements of disaster management are barely touched on. In addition to relief distribution, the national meteorological services and the Ministry of Agriculture and Cooperatives provide early warning information about impending disaster events, particularly to farmers and local communities, through radio, television, newspapers and the internet. He added that farmers and local communities, however, have no access to the information for economic reasons.

62. He pointed out that when, in 2001, the Government became aware that the current arrangements for disaster management and its attendant problems lacked any legal basis, it drafted the Disaster Management Bill, which provides for legal, administrative and institutional structures as well as comprehensive provisions for disaster management at national, regional and community levels. It also provides for the declaration of a state of disaster and the establishment of a disaster management fund. The Bill is yet to be enacted into an Act.

63. In the ensuing discussion, the issue of the integration of environmental aspects into current disaster management was raised, and there was a strong feeling that this should be incorporated into the draft bill, making it more comprehensive and tailored towards the better management of disaster events affecting the country. The issue of access to and exchange of information, particularly at local community level, was a huge challenge that needed urgent action on the part of the Government, United Nations bodies and the donor community.

## **5. Mozambique: national disaster management mechanisms – legal, administrative arrangements and institutions**

64. Mr. Andre da Silva, head of the Legal Department in the Ministry of Environmental Affairs, gave a presentation in which he described the Mozambican experience of frequent and cyclical disaster events such as floods, drought, hurricanes and bush fires with severe consequences for human lives, infrastructure and the environment. Notably, Mozambique shares nine of the 15 river basins in the SADC region. In the light of these disasters the Government, under presidential decree 44/80 of September 1980, established the Coordination Council for Prevention and Combat of Natural Disasters with the Department of Prevention and Combat of Natural Disasters as its executive body. The Council's work focused essentially on the provision of relief (food and shelter) to victims of the war and severe drought which affected the country in the 1980s. Recognizing that this decree was not comprehensive enough to deal with all the elements of the disaster management cycle, the Cabinet approved a policy on disaster management by resolution 18/99 of 10 June 1999. Within the framework of this policy, the Coordination Council for Disaster Management was established by Presidential decree 5/99 of 10 June 1999 and the National Institute for Disaster Management through decree 38/99 of 10 June 1999. The Institute was established as the executive body for the Council and was placed directly under the Ministry for the Coordination of Environmental Affairs. The policy provides for the development of programmes and activities to prevent, prepare for, respond to and mitigate disasters; essentially leading to avoidance of loss of human lives and destruction of property caused by disasters. Most importantly, the policy provides for the conservation and protection of the environment, which is crucial in reducing the impacts of disasters as well as for the development of actions to promote public awareness of disaster management and the involvement of civil society. It also proposes the establishment of an emergency fund that will be used in the implementation of the provisions. Finally, it provides for the declaration of a state of disaster where the nature and extent of the disaster requires exceptional measures to assist and protect the public.

65. In addition, he informed the participants that his country had specific legal instruments for the management of environmental disasters, for example the Environmental Framework Law approved by the Cabinet in 1997. Chapter IV of this framework law specifically deals with the prevention of environmental damage, while chapter VI deals with citizens' rights and duties, especially those relating to the issue of liability, compliance and compensation for material damage to the environment. Further regulations on environmental impact assessment and environmental auditing procedures have been legally put in place under decree 76/98 of 29 December 1998 and decree 32/2003 of 12 August 2003, which can be used for the evaluation of environmental damage in the event that a need for apportioning of liability and compensation arises.

66. The main challenges identified during the discussion of the presentation were:

- No enforcement or weak enforcement of the provisions concerning compliance;

- Need for capacity-building for people and institutions, including the training of staff such as judges and magistrates from the relevant institutions on disaster management issues;
- Need to strengthen coordination mechanisms for effective disaster prevention, preparedness, response and mitigation.

## **6. Video presentation: “The Day the Sky Caught Fire”**

67. Mr. James Kamara briefly described a disaster which had occurred on the outskirts of Mexico City on 19 November 1984 and had been recorded on video. It resulted from a chain of events that led to a leakage of gas from a liquefied petroleum gas storage and bottling facility surrounded by sprawling slum housing. What followed was that cylinder tanks caught fire; cylinders exploded because of increased vapour pressure; the fire spread to nearby slums; gas stoves in the slums and bottles of gas in the bottling factory ignited; 300 houses were burnt; rescuers only saved those people who had some chance of survival, leaving hopeless cases to die; 300 people lost their lives; 7,000 injured were treated for burns and hundreds crippled for life; 1,000 doctors attended the injured in makeshift shelters. Thousands will never ever forget this event.

68. Valuable lessons can be learned from the video presentation concerning the extent to which disaster risk can be reduced through firm compliance with rules and regulations.

69. In the case of this disaster on the outskirts of Mexico city, poverty and population pressure had caused the slum area to spread too close to the gas storage facility, increasing vulnerability and risks to the land adjacent to the facility. The civil authorities and the management of the LPG storage facility had not taken preventive or precautionary measures against the growth of the slum area. Technological standards, inspection, regulations and management were poor, and building codes were not strictly adhered to. The inherent vulnerability and potential risk factors were not mitigated. The extreme closeness of housing units to one another accelerated the spreading of the fire; lack of water and access roads hampered response; the shoddiness of materials and construction fed the fire further, and so on.

### **I. Group discussions (agenda item 9)**

70. As already noted in paragraphs 18–20 of the present report, participants were divided into four working groups and given specific exercises. The main purpose of the group discussions was to give the participants an opportunity for deeper reflection and more intensive discussion which would help them come up with conclusions on disaster management legal and administrative arrangements and institutions.

71. The four working groups were provided with written guidelines and were monitored by Mr. James Kamara, Mr. Laurent Granier and Ms. Feng Min Kan. The work of these groups was then presented to the plenary session for debate and for the development of provisional recommendations (see annex III for the guidelines provided to the working groups).

## **J. Drafting of recommendations by the working group (agenda item 10)**

72. The draft provisional recommendations from the working groups and plenary meetings were collated and submitted for adoption; the final conclusions and recommendations based on these were addressed to Governments, African regional and subregional organizations, UNEP and other United Nations bodies and international organizations.

## **K. Adoption of recommendations and closure of the workshop (agenda item 11)**

73. Ms. 'Makhiba Tjela, Acting Director and Principal Environment Officer (Legal), introduced the conclusions and recommendations of the workshop, requesting participants to focus on the need for the development of disaster management acts which fully integrated the environmental dimension, particularly in countries where this dimension had been ignored because of the close links between environmental degradation and the disasters most common to countries in the southern Africa sub-region. The conclusions and recommendations were then adopted with the amendments presented below.

## **III. Conclusions and recommendations**

### **A. Recommendations for specific Governments**

74. In conclusion, the workshop identified the strengths of the disaster management acts promulgated in Lesotho and Malawi and also the legal and institutional arrangements for disaster management in Botswana, Mozambique and Swaziland, where disaster management acts incorporating the environmental dimension are yet to be developed and passed into law. It was pointed out that there were gaps in disaster management acts and other legal arrangements and measures for closing the gaps were suggested, for example, the possibility of reviewing existing acts or legal arrangements with the aim of incorporating the environmental dimension into disaster management.

75. Overall, the raising of public awareness of environmental management legislation and the building of capacity to ensure the effective implementation of such legislation was recommended as a must for all the countries represented in the workshop, and their Governments were urged to pursue this as a matter of urgency and priority in the development process. The workshop placed even greater importance on the strengthening of coordination among stakeholders in environmental disaster management and called on governments to take appropriate measures to establish effective disaster coordinating mechanisms at national and community levels which could be used as a basis for sub-regional and regional disaster management coordination as a whole; UNEP, together with other United Nations bodies, should assist Governments in this regard. The participants unanimously agreed that Governments must translate disaster management policies, legislation and plans into local languages, and simplify their presentation so that local communities would have a better understanding of the importance of such legislation, and implementation at local level would be more effective.

76. On the issue of specific recommendations, the participants emphasized that the countries represented in the workshop were at different levels or stages in evolving

appropriate policies, legislative instruments, institutional arrangements and implementation mechanisms for disaster management. It was therefore important to tailor the recommendation to the country. The following recommendations were made by the workshop:

#### **Recommendation 1: Lesotho**

- (a) The Ministry of Tourism, the Environment and Culture should be represented on the board of directors of the Disaster Management Authority, since the most common disasters affecting the country are closely linked with environmental degradation;
- (b) Regulations, guidelines and by-laws should be developed to enhance the effective implementation of the provisions of the Disaster Management Act of 1997. The laws and regulations applicable to the various sectors should also be looked at to ensure that they are developed or modified to incorporate the different elements of disaster management (prevention, preparedness, response and mitigation);
- (c) Regulations under the Environment Act of 2001 should be reviewed and modified to incorporate environmental emergency prevention and other disaster management obligations;
- (d) Land zoning legislation should be modified to take into account disaster prevention and other disaster management obligations. This should also apply to industrial development plans and the authorization of industrial installations and complexes;
- (e) The Land Act of 1979 and the Industrial Development Master Plan should be reviewed to incorporate disaster prevention into their provisions to enhance reduction of risk and vulnerability to disasters at national and community levels;
- (f) The terms of reference of the village disaster management teams should be developed giving clear indications of the working relationships between them and the village development council to enhance coordination and avoid unnecessary duplication of efforts and resources in the event of a disaster;
- (e) Environmental impact assessment regulations should be developed or modified to incorporate the dispositions of the disaster management framework law.

#### **Recommendation 2: Malawi**

- (a) The Disaster Preparedness and Relief Act of 1997 should be revised to incorporate the environmental dimension into the other key elements of disaster management, namely: prevention, recovery, mitigation and risk reduction;

- (b) The draft National Disaster Management Plan should be finalized, incorporating the environmental dimension of natural and technological disasters;
- (c) Cooperation between the various Government departments and non-governmental organizations dealing with disasters should be strengthened, not only to enhance coordination and avoid unnecessary overlapping of efforts and resources, but also for effective and efficient delivery of disaster management services;
- (d) Regulations, guidelines and by-laws should be developed for effective implementation of the Disaster Preparedness and Relief Act of 1991. The Environmental Management Act of 1996 and similar laws and regulations pertaining to other sectors should also be developed or modified to incorporate the elements of disaster management.

### **Recommendation 3: Botswana**

- (a) The national policy on disaster management of 1996 should be reviewed to incorporate the environmental dimension, owing to the close links between environmental degradation and the recurring disasters affecting the country, and subsequently transformed into a disaster management act with all the attendant legal and administrative arrangements and institutions;
- (b) An umbrella environment management act should be developed and promulgated, giving due attention to disaster management provisions;
- (c) Access to information should be improved and there should be a better exchange and flow of such information between the National Disaster Management Office and the other sectors managing various disasters such as drought, animal diseases and veld fires;
- (d) Enforcement of and compliance with environment-related legislation such as the Waste Management Act of 1998 and the Public Health Act of 1991 should be strengthened by increasing the number of law enforcement officers and inspectors and by prosecuting environmental crimes.

### **Recommendation 4: Mozambique**

- (a) A disaster management act which integrates the environmental dimension and coordination mechanisms should be developed and promulgated;
- (b) Measures should be put in place to facilitate access to the resources of the Environment Fund (established under the Environment Framework Law) for relief purposes in the event of a disaster;

- (c) Regulations under the Environment Act should be reviewed and modified to incorporate environmental emergency prevention and other disaster management obligations;
- (d) Mechanisms should be developed for enforcement of and compliance with existing environmental legislation because of the correlation between environmental degradation and the incidence and severity of disasters affecting the country.

**Recommendation 5: Swaziland**

- (a) The Disaster Management Bill of 2001 (still to be presented to the Cabinet) should be revised to integrate the environmental dimension – appropriate regulations, guidelines and by-laws should also be developed once the Bill is promulgated into law;
- (b) Regulations under the Environment Management Act of 2002, as well as laws and regulations pertaining to other sectors, should be developed and perhaps modified to integrate the disaster provisions into the Disaster Management Bill once it is approved by Cabinet and promulgated into law.

**B. Recommendations for all Governments, African subregional organizations, UNEP and other United Nations bodies, the international community and non governmental organizations**

77. Participants drew attention to the increasing threat posed by disasters to development gains within the Southern Africa region; in relation to countries where disaster legislation and related administrative and institutional mechanisms is limited, it was felt that assistance should come not just from Governments themselves, but also from African subregional organizations, UNEP and other United Nations bodies, as well as from the international community and non-governmental organizations. This assistance could take the form of mobilization of resources, provision of emergency and rehabilitation relief to affected populations and capacity building for disaster management at national and community levels. In line with this, the following recommendations were made:

**Recommendation 6: Review and harmonization of sectoral laws**

The review and harmonization of all sectoral laws related to environmental disaster management should be promoted, with a view to integrating the environmental dimension into such laws.

**Recommendation 7: Capacity-building**

Capacity building with regard to people and institutions should be promoted, through:

- (a) The provision of institutional technical assistance to support the establishment or strengthening of appropriate disaster management mechanisms and institutions at national and community levels and the provision of tools and guidance for capacity-building;
- (b) Human resources training on disaster management should be provided, especially to staff from the relevant institutions (including community-based organizations) dealing with elements of disaster management; these would include law enforcement officers, judges, magistrates, environmental inspectors and representatives of civil society as a whole. They would be educated in how to reduce the potential for loss of life and property in the face of hazards; how to strengthen enforcement of rules and regulations and encourage compliance by the population, and how to promote understanding and acceptance of disaster management as part and parcel of sustainable development.

**Recommendation 8: Early warning**

- (a) Since the effective management and application of early warning systems of indicators are essential for the reduction or mitigation of the impacts of disasters, national and subregional policies should be formulated to facilitate the establishment or strengthening of institutions with capacity for prediction and for the application of warning indicators at national, district and community levels;
- (b) Capacity-improving measures such as integration of the environmental dimension into the management of early warning systems should be put in place by Governments and by SADC with the support of UNEP and other United Nations agencies and international organizations.

**Recommendation 9: Public awareness**

- (a) Public awareness campaigns (including effective and vibrant education campaigns on appropriate environmental ethics, particularly for young people) on disaster management should be promoted, to create understanding and acceptance in order to achieve better disaster prevention, preparedness, response and mitigation at national, subregional and local community levels;
- (b) Efforts should be made to strengthen and promote access to information and the exchange and sharing of information on policies, legislation, administration and institutions dealing with disasters as well as on plans, programmes and all the elements of disaster management.

**Recommendation 10: Subregional co-ordination and co-operation**

- (a) Existing disaster legislation or related laws should be reviewed in all the five countries to take into account the principles of disaster management for regional co-operation and harmonization;

- (b) The SADC Early Warning Unit, which currently focuses on food security issues, should be strengthened to cover early warning on natural and technological disaster prevention, preparedness, response and mitigation and to facilitate access to information and the sharing and exchange of information and documentation among SADC member States;
- (c) With the support of UNEP, United Nations agencies and international organizations, SADC should develop a protocol on the environment which will serve as overarching framework for the harmonization of other protocols and streamlining disaster management activities undertaken by the sectors within SADC;
- (d) SADC should facilitate the establishment of screening mechanisms and simple and prompt clearance procedures for the movement of goods and services between member States for relief purposes in the event of a disaster.

**Recommendation 11: Disaster management and governance**

- (a) Governments should strengthen and promote access to and flow of information on policies, legislation, administration, institutions, plans and programmes for disaster management from the top to the bottom and vice versa at the national and local community levels;
- (b) Governments should simplify and translate disaster management policies, legislation and plans into local languages to enhance understanding of their importance and provisions by the local communities as well as the need for their effective implementation at the local level;
- (c) Governments should promote public participation in the development of disaster management legislation to ensure that the aspirations and needs of the people are integrated;
- (d) Governments should recognize the linkages between poverty, environmental degradation and disasters and also address the challenges brought by these issues in a holistic manner reflected in specific instruments, such as poverty reduction strategy papers;
- (e) Governments should adopt risk management approach in disaster management, that is, risk identification, evaluation, management and communication and disaster management measures should go beyond disaster response;
- (f) Governments should promote the application of the prevention, precautionary and polluter-pays principles in disaster management and other related legislation;

- (g) Governments should institute the systematic and mandatory application of disaster risk management, environmental impact assessment and strategic environmental assessment in disaster management;
- (h) Governments should develop and promote alternative livelihoods and measures which should not be donor driven, to reduce pressure on the natural resources, for example, subsidies in rural electrification and provision of solar energy.

#### **Recommendation 12: Financial resources**

- (a) Governments should provide adequate financial resources for disaster management through the establishment of trust funds which should enjoy a statutory security (that is, they should be stable, predictable and easily accessible with simple procedures) and provision for regular appropriation by parliaments and for fund-raising from the international community, including United Nations agencies;
- (b) Governments should explore possibilities for development of projects and subject-specific partnerships with UNEP and other United Nations agencies and international and non governmental organizations to promote environmental disaster management and legislation.

78. Speaking on behalf of Mr. Tveitdal, Mr. Kamara commended participants on the success of the workshop and thanked them in particular for their committed and fruitful deliberations. He called on them to urge their Governments to provide the necessary impetus and wherewithal to implement the recommendations which were aimed at Governments and which, he stressed, would play a vital role in reducing risks and vulnerability to disasters.

79. In her closing remarks on behalf of Mr. Molapo, Ms. Tjela thanked the participants for their active and constructive participation in the workshop and called on them to ensure that the recommendations were strongly implemented by their respective Governments. She also thanked UNEP for organizing the workshop in Lesotho and, while reiterating her Government's appreciation to UNEP for its support, requested continued such support particularly in the implementation of the Disaster Management Act of Lesotho. She declared the workshop closed at 8 p.m. on Friday, 20 February 2004.

## ANNEX I WORK PROGRAMME

### Day 1: Wednesday, 18 February 2004

08:30 – 09:00	<b>Registration</b>	
09:00 – 10:00	Agenda item 1: Opening of workshop Welcoming statement: <ul style="list-style-type: none"> <li>▪ UNEP</li> <li>▪ Lesotho</li> </ul>	
10:00 – 10:30	<b>Coffee break</b>	
10:30 – 11:00	Agenda item 2: Organization of the workshop and consideration of the agenda and programme of work	J. Kamara UNEP/DEPI
11:00 – 11:30	Agenda item 3: Goal and objectives of the workshop	J. Kamara UNEP/DEPI
11:30 – 12:00	Agenda item 4: Overview of UNEP work on environmental emergencies	S. Micallef UNEP/DEPI
12:00 – 12:30	Discussion	
12:30 – 14:00	<b>Lunch break</b>	
14:00 – 14:15	Agenda item 5: Creation of enabling environment for disaster reduction: the importance of legislation	F. Kan ISDR
14:15 – 14:45	<b>Discussion</b>	
14:45 – 15:15	Agenda item 6: Background paper: Disaster legislation in Africa: key issues and considerations	J. Kamara UNEP/DEPI
15:15 – 15:45	Discussion	
15:45 – 16:00	<b>Coffee break</b>	
16:00 – 16:30	Agenda item 7: Introduction to law concepts and principles related to environmental disaster management	L. Granier PADELIA
16:30 – 17:00	Discussion	

18:00                      **Reception**

**Day 2: Thursday, 19 February 2004**

Agenda item 8: National disaster management legislation

08:30 – 09:00

(a) Lesotho: Disaster Management Act – institutions, implementation, lessons learned and challenges.

09:00 – 09:30

Discussion

09:30 – 10:00

(b) Malawi: Disaster Management Act – institutions, implementation, lessons learned and challenges

10:00 – 10:30

Discussion

10:30 – 11:00

**Coffee break**

10:30 – 11:00

(c) Botswana: national disaster management mechanisms – legal, administrative arrangements and institutions

11:00 – 11:30

Discussion

11:30 – 12:30

Example of a technological disaster: “The Day the Sky Caught Fire” – video show

12:30 – 12:45

Discussion

12:45 – 14:00

**Lunch**

14:00 – 14:30

(d) Mozambique: national disaster management mechanisms – legal, administrative arrangements and institutions

14:30 – 15:00

Discussion

15:00 – 15:30

(c) Swaziland: national disaster management mechanisms – legal, administrative arrangements and institutions

15:30 – 16:00

Discussion

16:00 – 16:30

**Coffee break**

16:30 – 17:30

Agenda item 9: group discussions:  
Group 1 – legal arrangements for disaster management  
Group 2 – institutional arrangements for disaster management  
Group 3 – subregional coordination and cooperation for disaster management

Group 4 – disaster management and governance

**Day 3: Friday, 20 February 2004**

08:30 – 10:30	Agenda item 9: continued
10:30 – 11:00	<b>Coffee break</b>
	Agenda item 10: outcome of group discussions – plenary
11:00 – 11:30	Group 1 presentation
11:30 – 12:00	Group 2 presentation
12:00 – 12:30	Group 3 presentation
12:30 – 13:00	Group 4 presentation
13:00 – 14:00	<b>Lunch</b>
14:00 – 15:30	Drafting of recommendations by the working group
15:30 – 15:45	<b>Coffee break</b>
15:45 – 16:45	Agenda item 11: Adoption of recommendations and closure of the workshop

## ANNEX II

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## ANNEX III

### OUTLINES FOR GROUP DISCUSSIONS

#### Groups

1. Legal arrangements
2. Institutional arrangements
3. Subregional coordination and cooperation
4. Environmental disaster management and governance

#### Exercises

Each group was chaired by a Chair using the outlines to conduct the discussions. Each group was designated a drafter, who took notes of the conclusions and recommendations coming out of the discussions and drafted them for adoption at the plenary.

#### 1. Legal arrangements

(a) What legal arrangements on environmental disaster management exist in your country?

- Is there a dedicated law or different pieces of legislations or a framework law or a constitutional provision (articles in the constitution)?
- How does it work? Problem faced, gaps, lessons learned

(b) For the countries without any legal arrangements:

- How do things currently work?
- What are the mechanisms?
- What are the needs?
- Do you want to build upon the following elements of disaster management?
  - Prevention
  - Preparedness
  - Response
  - Mitigation

#### 2. Institutional arrangements

(a) What institutional arrangements on environmental disaster management exist in your country?

- Is there a dedicated law or different pieces of legislation or a framework law or a constitutional provision (articles in the constitution)?
- How does it work? Problems faced, gaps, lessons learned

- (b) For the countries without any institutional arrangements:
- How do things currently work?
  - What are the mechanisms?
  - What are the needs?
  - Do you want to build upon the following elements of disaster management?
    - Prevention
    - Preparedness
    - Response
    - Mitigation

### **3. Subregional coordination and cooperation**

- (a) What disasters occur at subregional level in your region?
- (b) What are the existing coordination and cooperation systems for managing them?
- Is there a notification system? Describe and stress the gaps and needs.
  - Is there a mutual assistance system? Describe and stress the gaps and needs.
- (c) Status of current work by SADC on disaster management: gaps, issues to address, proposals
- (d) How is the subregion tiered up to tap into the global system, for example, in mobilizing international assistance? [Notification form]

### **4. Environmental disaster management and governance**

- (a) Environmental disaster management and public information, participation, access to justice;
- (b) Environmental disaster management and poverty-reduction-nexus;
- (c) Environmental disaster management and ecosystem approach – prevention or risk reduction systems;
- (d) Environmental disaster management and integrated policies at national and subregional levels.
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