

NATIONAL ENVIRONMENTAL POLICY

A national policy to promote the enhancement, protection and conservation of the environment and the attainment of sustainable development in Swaziland.

Nota Bene.

This is a confidential draft of a National Environmental Policy. It was circulated in October 1998 and has been refined following the national workshop held by the Swaziland Environment Authority in November 1998 to take into account views and responses contributed by the participants at that workshop. Although most of the policy statements in this document have been derived from the Swaziland Environmental Action Plan (SEAP), this is a working document and not a formal policy document. As such it should not be interpreted as the policy of the Swaziland Environment Authority, the Ministry of Tourism, Environment and Communications, or of the Government of Swaziland, until it has been finally agreed and adopted by Cabinet as a national policy.

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LIST OF ACRONYMS

AEZ	Agro-ecological Zoning
CRDB	Central Rural Development Board
ESRA	Economic and Social Reform Agenda
HSA	Human Settlements Authority
MEAs	Multi-lateral Environmental Agreements
NDS	National Development Strategy
NLP	National Land Policy
NRB	Natural Resources Board
SEA	Swaziland Environment Authority
SEAP	Swaziland Environmental Action Plan
UNDP	United Nations Development Programme

NATIONAL ENVIRONMENTAL POLICY

1. INTRODUCTION

1.1. Background and rationale

The environment and natural resources of Swaziland are the foundation for economic and social development and satisfy important economic, social, cultural, emotional, spiritual and aesthetic needs of its peoples. Indeed, all life ultimately depends on natural ecosystems and processes and maintaining these processes and protecting diverse and sensitive habitats and species are of fundamental importance to each inhabitant of Swaziland, to the Swazi Nation and to the global community.

Although sustainable development and environmental protection are at the heart of Swaziland's National Development Strategy, and the Swaziland Environmental Action Plan ("SEAP"), it has become apparent that the lack of a single, comprehensive national policy on the environment has hampered efforts to protect the environment and to integrate environmental concerns into the national development process.

Past and present human activities, in particular the patterns of natural resource use, have proved to be unsustainable and hence the quality of the environment is being impaired. Notable examples include severely polluted rivers, air pollution from industrial and urban areas, land degradation such as deforestation, desertification, soil erosion, and declining range-land productivity, and reduced populations of wildlife. As the productivity of the environment declines, it becomes harder for people to make a living in rural areas which increases the migration to peri-urban areas where many people live in unhealthy conditions. It has therefore become increasingly necessary to regulate those activities that impact on the environment.

In the recent past environmental management in Swaziland occurred on a sectoral basis, mainly because of the absence of a single government agency responsible for taking the lead in environmental matters. As a result of recommendations of a 1987 report commissioned by UNEP and a national seminar on the environment, it was decided that a national environmental authority should be established. The subsequent establishment of the Swaziland Environment Authority ("SEA") in 1992 after the enactment of the Swaziland Environment Authority Act No. 15 of 1992, represented a major milestone in addressing environmental matters in a coordinated way.

The absence of a comprehensive national environmental policy was also identified as a significant obstacle in a 1991 report entitled "Ensuring our Future" submitted by Swaziland to the 1992 United Nations Conference on Environment and Development in Rio de Janeiro. In 1996 the SEA with the support of the United Nations Development Programme ("UNDP") initiated a 15 months long national consultation process involving all levels of Swazi society to prepare an environmental action plan for Swaziland. The Swaziland Environmental Action Plan ("SEAP") was completed in early 1997 and was approved by the Cabinet in August 1997. The SEAP represents a synthesis of the recommendations of national and regional workshops, local focus group meetings, and six sectoral and three cross-sectoral technical working groups. It is presented in two volumes, Volume 1 "The Swaziland Environmental Action Plan" and Volume 2, "The Policy and Strategy Framework".

As the Minister of Tourism, Environment and Communications notes in the foreword,

“The SEAP is Swaziland’s first comprehensive distillation of lessons and thoughts on environment and development from a national perspective encompassing the need for definition of policies and action plans, their implementation strategies, monitoring and regular review...”.

This National Environmental Policy (“NEP”) builds on the analysis and recommendations contained in the SEAP and represents the next step in promoting sound environmental management across all areas of decision-making. The effectiveness of the NEP will be continuously monitored and the policy will be periodically reviewed, and if necessary updated, to ensure that it remains relevant.

1.2. Scope

The word “environment” can include everything in the world that surrounds us. For the purposes of this policy, “environment” is taken to mean the natural environment (including land, water, air, all forms of life and the relationships between them) and sites of cultural and historical significance, whether natural or built. However, it would be inappropriate for an environmental policy to deal with all policy issues arising in relation to every aspect of our physical environment. As a result the NEP focuses on the general principles and approaches which should be adopted by any part of government, traditional structure, organisation and individual, in undertaking any activity which may affect the environment.

It is particularly important to recognise that although the NEP is presented as a distinct national policy, aspects of it must be integrated into other national plans because virtually all these plans will involve the use of natural resources or affect the environment in some way. In this way the NEP will play a key role in integrating a range of policies into a comprehensive national policy framework designed to achieve equity-led growth and sustainable development in Swaziland.

The NEP also embraces the regional and global environmental responsibilities that Swaziland has undertaken as a party to various multilateral environmental agreements (see section 4.3 below).

2. POLICY GOAL AND PURPOSE

The main goal of the National Environmental Policy is:

to promote the enhancement, protection and conservation of the environment and the attainment of sustainable development in Swaziland.

3. PRINCIPLES

This policy is based on four core principles governing: responsibility for environmental conservation; how we interact with and use the environment; the environmental rights of individuals; and the wider context of sustainable development. These core principles are supported by seven subsidiary principles (principles 5 to 11) which will guide the implementation of this policy.

3.1. Core Principles

Principle 1 Environmental Responsibility

The natural environment of Swaziland is the heritage of all its peoples who individually and collectively bear the responsibility of safeguarding it for both the present and future generations.

Environment and to take appropriate steps to avoid damaging the environment and to conserve and enhance the natural environment.

Principle 2 Buntfu and Sustainable Use

All our interactions with the environment should be characterised by *buntfu* and use of the environment should be managed on the basis of sustainability, for the benefit of all Swaziland's inhabitants, both present and future.

buntfu is a broad concept, for which there is no single equivalent English term, in the context of this policy it means relating to the environment and other people in a humane, considerate and respectful manner. In this context, this principle therefore implies that we must:

- exercise moderation and discipline to restrict our consumption of natural resources and use of the environment to sustainable levels;
- use living natural resources such as plants and animals prudently to ensure that the rate of exploitation does not exceed the natural rate of regeneration or undermine the resilience of natural systems; and
- optimise the value of non-living natural resources such as water and minerals, by judicious use and re-use.

Principle 3 Environmental Rights

Every inhabitant of Swaziland is entitled to live in an environment that is conducive to health and well being, and to have access to the natural environment on an equitable and sustainable basis, and to the means of enforcing these rights.

This principle implies that all inhabitants of Swaziland have the basic right to breathe clean air and to drink clean water and to enjoy the natural amenities of Swaziland's environment. Any person who causes pollution or environmental degradation to such an extent that the health of others, or the public's ability to enjoy the common benefits of the environment, is threatened, would therefore be infringing this basic right. Means of enforcing these rights, such as access to the courts, will need to be developed.

Principle 4 Sustainable Development

Environmental protection and social and economic development are interdependent and indivisible. Integrating environmental protection into the process of social and economic development is essential to achieve equity-led growth and sustainable development.

people. If they do not, the growth will not be socially or politically sustainable and will almost certainly result in further degradation of the environment. Poverty is both a main cause of environmental degradation and a major consequence of it because it undermines the ability of the poor to make a living. Growth is necessary to improve the quality of lives of the poor and to provide financial resources to tackle existing environmental degradation, but growth that is not economically, socially and environmentally sustainable will not benefit Swaziland.

This principle requires environmental considerations to be integrated into all policies, programmes and plans concerning national development, and for these policies, programmes and plans to be evaluated on the basis of their effects on the environment, social equity and on economic development.

3.2.

Supporting Principles

Principle 5 Public Awareness and Participation

Public awareness and public participation in decision-making concerning their environment is essential for effective, long-term environmental protection and equitable utilisation and management of natural resources, and will be encouraged and facilitated. The public will be given appropriate access to information concerning the environment that is held by public authorities, information on the environment will be made widely available, and education on environmental issues will be promoted.

The Government and each person, organisation or community responsible must, wherever possible, take proactive measures to avoid and prevent environmental harm occurring.

Where the environment is threatened with serious or irreversible damage, the government and other responsible parties will take cost-effective measures to prevent the damage, even in the absence of full scientific certainty as to the damage and causes.

Measures will be taken wherever reasonably practical and with due regard to the public interest, to ensure that the cost of pollution and environmental degradation are borne by the polluter or person who causes the pollution or degradation.

Wherever reasonably practical, pollution should be rectified and waste should be treated or disposed of, at or near the source.

Swaziland will support international efforts to improve the protection of the global environment, will take all reasonable measures to ensure that activities within Swaziland, or subject to its control, do not cause damage beyond its borders, and will co-operate with other states in the region on transboundary environmental issues.

activities, and consult with those states at an early stage and in good faith; and

- immediately notify states of any natural disaster or emergency in Swaziland which are likely to produce harmful effects on the environment of those states.

4. POLICY CONTEXT

It is important to understand the NEP as part of an integrated and coordinated public policy framework and not simply as a stand-alone policy. For this reason it is necessary to understand how it relates to other public policies and policy initiatives within Swaziland and to regional and international policy initiatives.

4.1. Integrating environmental protection into national development

The Declaration of the United Nations Conference on Environment and Development in Rio de Janeiro, Brazil in 1992 (“the Rio Declaration”) called for environmental protection to be integrated into the development process. The integration of environmental considerations into Swaziland’s national development policy began with the inclusion of some environmental objectives in the short-term objectives of the Economic and Social Reform Agenda (ESRA) of 28 February 1997. These included: ensuring protection of the land resource (by various means including the preparation of a National Environmental Action Plan and the implementation of an environmental programme); and improving water resource management.

The National Development Strategy for the period 1997 to 2022 (“NDS”) has taken this process further by identifying environmental protection as a cornerstone of sustainable development and therefore a central part of the NDS. Underlying the long-term vision of the NDS is the focus on the quality of life for individuals in the country. The NDS identifies the critical dimensions of this quality of life as: poverty reduction and elimination, employment creation, gender equity, social integration and environmental protection (NDS p.76). Environmental protection is a central component of all eight sectors of the NDS because of Swaziland’s commitment to sustainable development and because activities within each sector affect the environment (NDS p.27).

The high priority which is now given to environmental matters also reflects the recognition that maintaining natural ecological processes, and protecting diverse and sensitive habitats and species, are of fundamental importance to each inhabitant of Swaziland, to the Swazi Nation and to the global community.

4.2. National planning framework

Volume II of the Swaziland Environmental Action Plan proposes a hierarchy of action plans intended to structure a consistent approach to land and environmental management. The National Environmental Policy, because it concerns general issues of fundamental importance, is a first level plan in that hierarchy.

This means that:

- other plans on the same level (in particular, the National Land Policy) should be consistent with the NEP and vice versa;
- more specific lower level policies (e.g. relating to biological diversity, forestry and energy) must be developed within the broad policy framework set out in the NEP; and

- other sectoral policies, strategies and action plans concerning matters which are likely to impact on the environment (e.g. policies relating to transport, energy, mining, industrial development, tourism, and human settlements) must be consistent with the NEP and give effect to the principles contained in the NEP.

A new Environment Management Act will be introduced to ensure that any new legislation, public policy, plan or programme, which may have a significant adverse environmental impact or which may have a negative impact on the sustainable development of Swaziland, will be assessed and, if necessary, will be subjected to a strategic environmental impact assessment to identify additional cost-effective measures to avoid or mitigate these adverse effects.

4.3. Regional and international context

Swaziland's environment is part of the global environment and its people are part of a wider regional community - represented primarily by the Southern African Development Community ("SADC") - and of the global community. Consequently the NEP also embraces the regional and global environmental responsibilities of Swaziland arising from regional and international agreements and declarations to which Swaziland is a party.

These include:

- the African Convention on the Conservation of Nature and Natural Resources (1968);
- the Convention on Biological Diversity (1993);
- the Vienna Convention for the Protection of the Ozone Layer (1985) and the Montreal Protocol (1987);
- the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989);
- the Bamako Convention on the Prohibition of International Trade in Waste with Africa (1991);
- the United Nations Framework Convention on Climate Change (1992);
- the Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification (1994); and
- the SADC Policy and Strategy for Environment and Sustainable Development (1996).

5. POLICY INSTRUMENTS

A wide range of methods may be used to implement environmental policies. This section outlines the main tools or methods that the Government intends to employ to implement the NEP.

5.1. Education and communication

Education and the communication of information will be the main policy instrument used to give effect to Principle 1 on environmental responsibility. The overall goal for environmental education is to develop a population that is environmentally conscious and motivated to manage and develop its own environment and natural resources sustainably and to live in harmony with the environment.

The key to the prevention of environmental pollution and the protection and conservation of Swaziland's natural resources lies in the commitment and participation of the people. As individuals and groups, people must make environmentally sound decisions and adopt environmentally sound practices in their daily lives. People must be able to uphold their environmental rights and meet their responsibility. It is widely recognised that a population that understands the environment and the influences of human behaviour on that environment and has the skills to rehabilitate, protect and conserve that environment, will be more likely to adopt environmentally sound attitudes and practices.

Environmental education and awareness can play a key role in changing individual and group attitudes and behaviour and is therefore an important tool for promoting sustainable management.

5.2. Legislation

Legislation has historically been one of the main ways of implementing public policy, and remains so today. The Government is taking steps to pass several new laws to strengthen the legal framework for environmental protection, pollution control and natural resource management. These include replacing the Swaziland Environment Authority Act with a new Environment Management Act which establishes a comprehensive framework for environmental management; revising the Environmental Audit, Assessment and Review Regulations; and introducing regulations governing air pollution, water pollution, and waste management. A full review of all legislation relating to biological diversity will also be undertaken with a view to preparing consolidated legislation on protected areas and the conservation of biological diversity.

New legislation will be used to implement the NEP in several ways, including:

- establishing environmental standards and rules;
- creating rights and incentives; and
- strengthening existing environmental impact assessment procedures and introducing new procedures to ensure that environmental matters are considered when formulating new public plans and policies, and authorising development projects.

Environmental standards and rules

The proposed legislation will establish standards and prohibit certain behaviour in relation to a range of matters including waste disposal, and pollution of air and water. In addition, the Government will continue with existing programmes to increase the capacity of the SEA and other agencies to effectively implement and enforce environmental laws.

Creating rights and incentives

The Government proposes to give effect to the environmental rights referred to in Principle 3 by recommending the inclusion of environmental rights in the new Constitution and by enacting legislation that will:

- facilitate the institution by individuals and environmental organisations of court proceedings to protect the environment; and
- enable those who unlawfully damage the environment to be held legally liable for repairing the damage and for compensating the victims of pollution and environmental damage.

Legislation will also be used to introduce environmental fees and taxes (discussed in section 5.3 below).

Environmental Assessment Procedures

The introduction of the Environmental Audit, Assessment and Review Regulations 1996 has proved to be an effective mechanism for ensuring that proposed projects are screened to determine their likely impact on the environment, and where necessary, that appropriate mitigation measures are taken. The implementation and enforcement of these regulations has been facilitated by the fact that project proponents have an incentive to conduct an environmental impact assessment (EIA) because it is a precondition for obtaining an Environmental Compliance Certificate (ECC) without which the project cannot proceed.

The Government will further strengthen the legal requirements and administrative capacity for assessing environmental impact assessment reports, monitoring compliance with approved comprehensive mitigation plans and auditing existing undertakings.

In addition, the new Environment Management Act will require all public policies, plans and programmes which may have a significant impact on the environment or on the sustainable management of natural resources, to be subjected to a strategic environmental assessment. The purpose of the assessment is to identify appropriate modifications that can be made to avoid or reduce any potentially negative environmental impacts.

5.3. Economic instruments

Economic instruments have a valuable role to play in environmental management. They should be used in conjunction with other policy instruments such as legislation and environmental education. Economic instruments are an important and cost-effective tool in protecting and enhancing the productive capacity of the environment, and taking into account the costs of resource depletion.

Pollution control

The two underlying tenets of economic instruments in pollution control are firstly that the environment provides a valuable and currently free service to the economy as a waste sink; and secondly, that the more environmental users pollute the more they should pay. The essence of this is to provide incentives for minimising waste and encouraging the adoption of best practices.

Unacceptable levels of pollution will not be permitted and producers shown to be exceeding standards will be subject to legal action.

Environmental charges will be introduced to meet the costs of pollution and hence make users pay the full costs associated with their production activities. Revenues will be paid into a National Environment Fund (NEF) and will be used to pay for environmental remediation, particularly in areas where there is a threat to the livelihoods and wellbeing of communities.

Development Control

Many natural resources including land, indigenous forestry, and water are free or under-priced which leads to over use and degradation or depletion. The costs and benefits of resource use should be internalised through the use of clearly defined property rights, providing 'green' subsidies to encourage environmentally beneficial behaviour and 'brown' taxes and charges to increase the cost of activities which pollute or otherwise degrade the environment. In this way resource users in making decisions take the real costs and benefits of resource use into account. Full cost pricing of natural resource use will therefore encourage sustainable, equitable and efficient use of the nation's natural capital.

Perverse subsidies that encourage unsustainable resource use will be identified and phased out. Policy-makers will be encouraged to take environmental considerations into account in their development decisions. Sustainability indicators will be used to provide measures of progress towards sustainable development, the core vision of the 25-year National Development Strategy.

5.4. Public sector investment

In some cases the most effective way of achieving an environmental objective may be by public investment. For example, building a sewage treatment plant will be a far more effective way of dealing with water pollution from households than passing a law prohibiting the disposal of sewage into a river. It is anticipated that there will be major long-term environmental benefits from public investment projects such as the Swaziland Urban Development Project.

6. IMPLEMENTATION STRATEGY

This section describes some of the key features that will characterise the government's approach to implementing the NEP. Details of strategies for dealing with specific issues and priorities are set out in the SEAP

6.1. The role of government

The role of His Majesty's Government in relation to environmental protection is to work in partnership with the public in general and with particular communities and organisations to achieve the objectives of the NEP.

The main functions of the Government will therefore be:

- to establish an appropriate regulatory framework (laws, institutions, and monitoring and enforcement mechanisms) within which effective environmental protection, management and sustainable development can be achieved;
- to establish an economic policy framework which provides incentives for restoring and maintaining the productive capacity of natural resources and disincentives for polluting or degrading the environment;
- to work in partnership with all the people of Swaziland for natural resource management and pollution control to achieve the objectives of the NEP;
- to intervene, where necessary and in accordance with the law, to protect the natural heritage of Swaziland for the benefit of present and future generations;
- to promote research into more equitable and effective methods of environmental protection and management;
- to promote environmental education; and
- to liaise and co-operate with regional and international organisations concerned with environmental protection.

The NEP will provide an essential mechanism and basis for coordinating the activities of the many ministries, government departments, traditional structures, municipal and town councils, and other organisations involved in environmental and natural resource management and in activities that impact on the environment.

6.2. The role of the public

One of the cornerstones of the NEP is the principle that environmental protection is not just the responsibility of government (at every level) but is also the responsibility of every inhabitant of, and visitor to, Swaziland (see Principle 1). All of us have a social responsibility to demonstrate *buntfu* in relation to the environment (Principle 2). This means that the NEP is intended to be a policy that is not only for the benefit of all our people, but is also to be implemented and followed

by everyone, whether acting as an individual or collectively as an organisation.

6.3. Building partnerships

Principle 1 draws attention to our personal and collective responsibility for environmental protection. The Government will give effect to this principle by forging partnerships with communities, town boards and municipal councils, organisations (including non-governmental organisations), and companies, to implement the NEP. This partnership approach will also be applied within Government where the SEA will take the lead in encouraging all ministries and departments responsible for activities that affect the environment to work collaboratively in order to achieve the objectives of the NEP.

6.4. Financial and administrative sustainability

The Government will, where possible and appropriate, adopt policy initiatives that generate funds in order to promote a financially and administratively self-sustaining environmental management system. This may include charging users for the benefits they receive from the environment and imposing environmental charges to cover the costs of the environmental services they currently use for free.

Implementation approaches that do not impose a heavy administrative burden will be favoured and, where possible, economic incentives will be adopted to encourage compliance with environmental laws and good natural resource management practices.

6.5. An incremental approach

Implementation of the NEP should be pragmatic and as cost-effective as possible. In general the Government will take an incremental approach and in the first instance will focus its limited resources on tackling the most significant problems. In prioritising issues the Government will also evaluate the prospect of achieving significant results against the cost of taking the measures. This means that, for example, if most pollution originates from a few sources, these may be prioritised for attention.

7. INSTITUTIONAL AND ADMINISTRATIVE FRAMEWORK

7.1. Rationalising existing structures

All aspects of the environment of Swaziland are inter-related and cannot be separated. For historical and practical reasons the administration of environmental and natural resource management has been divided among a number of different governmental and traditional authorities. However it is now clear that the administration of environmental and natural resource management in Swaziland could be improved by rationalising the current administrative framework and using the resources which this makes available, to strengthen the core institutions.

The Central Rural Development Board and the Natural Resources Board have historically played an important role in coordinating natural resource and environmental management, the CRDB in Swazi Nation land and the NRB in the rest of the country. However the SEA now has the overall mandate to co-ordinate environmental management in the country and the distinction between Swazi Nation land and other land makes little sense from an environmental perspective. For these reasons the Government intends to explore ways of merging these three bodies.

The Swaziland National Trust Commission (SNTC) has responsibility for protecting wildlife and sites of cultural and historic importance within game reserves and other formally protected areas, whereas the SEA is responsible for the protection of biological diversity and environmental protection in the rest of the country. This division of responsibility is anomalous and the Government intends to introduce legislative and administrative changes to rationalise responsibility in this area.

7.2. Strengthening the SEA

The SEA is, and will continue to be, the central institution in the national environmental management system. For this reason, one of the central objectives of the NEP is to expand and strengthen the SEA and its capacity to implement and enforce environmental laws.

7.3. Environmental fund

The Government also proposes establishing a national environmental fund to provide additional financial support for environmental management in Swaziland. Funds generated through charging users for benefits or fines for polluting or degrading the environment will be used to develop a National Environment Fund (NEF). This will be used to support activities that redress environmental degradation or enhance environmental management.

7.4. Environmental information system

Good environmental management relies on having access to good data and information. Making environmental information accessible is also an essential precondition to effective public participation in environmental management. As a result the Government will seek to establish integrated information systems which enable both Government planners and regulators, and the public, to have access to reliable information on the natural resources and environment of Swaziland. Establishing an effective environmental information system will also enable the SEA to periodically prepare State of the Environment Reports which will be an important way of monitoring the extent to which the NEP is proving successful.