



Environmental Safeguards in Kenya: Oceanographic and Coastal Perspectives

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Safeguards Officer



Talk Outline

Theme	Perspective
✓ Evolution of Environmental consciousness and Environmental mgt tools	<ol style="list-style-type: none">1. Global arena2. Kenyan arena
✓ The Foundations of Environmental management and safeguards under the New Kenyan Constitution (2010) and Vision 2030 blueprint	<ol style="list-style-type: none">1. Environmental provisions2. Safeguards issues
✓ Oceans and coastal perspectives and instruments for Ocean Environmental management and safeguards	<ol style="list-style-type: none">1. Significance to life-support systems2. National legal instruments3. International instruments4. Challenges
✓ Work done by KMFRI for compliance and conformance to Oceans and coastal safeguard requirements	<ol style="list-style-type: none">1. Ocean Environment, Fisheries and Aquaculture2. Opportunities under RV Mtafiti



Perspective Framework of env^{tal} consciousness and mgt

(to ensure sustainability and community benefits and opportunities for the present and future generations from developmental interventions)

Phase	Period	Business	Consumers	The Law	Env ^{tal} Mgt Tools
Knowledge awareness	Pre- 70s				
	Mid-80s				
Immaturity	1990s				
Reaction	1992 - 1994				
Maturity	1998 - now				



Global perspectives of env^{tal} consciousness and mgt tools (to ensure sustainability and community benefits and opportunities for the present and future generations from developmental interventions)

Phase	Period	Business	Consumers	The Law	Env ^{tal} Mgt Tools
Knowledge/ awareness	Pre- 70s	Very little concern	Completely unaware of “green” issues	Almost none	None
	Mid-80s	Some concern	unaware of “green” issues	Few env ^{tal} laws	EIA’s in some countries (USA)
Immaturity	1990’s	Companies panic on new laws	Delight at new “green” products	Major new laws introduced	EIA/SEA: few people become aware
Reaction	1992 - 1994	Laws have less impact than feared	Rejection of “green cons” issues	More laws and penalties developed	Rio-1992: env ^{tal} policies, env ^{tal} laws; EIA/SEA
Maturity	1998 - now	Env ^{tal} mgt systems are common	Consumers expects purchases to be green	Court actions are more common	SEA awareness and use becoming global



Kenyan perspectives of env^{tal} consciousness and mgt tools

(to ensure sustainability and community benefits and opportunities for the present and future generations from developmental interventions)

Phase	Period	Business	Consumers	The Law	Env ^{tal} Tools
Knowledge/ awareness	Pre- 70s	Very little concern	No “green” issues	Post-colonial statues – for agriculture, forestry, fisheries, wildlife, water, etc	None
	1972	Some concern	No “green” issues	National Environmental Secretariat (NES)	None NES was: ✓ Co-ord ^{ng} ✓ Not Enforcing
	1980s	Some concern	Most unaware of “green” issues Wangari Mathai was(Mathai vs Kenya Times Trust, 1989)	No env ^{tal} laws Judge Dugdale dismissed the initial case on grounds of <i>locus standi</i>	None

(Adapting from Sadgrove 1999)



Kenyan perspectives of env^{tal} consciousness and mgt tools

(to ensure sustainability and community benefits and opportunities for the present and future generations from developmental interventions)

Phase	Period	Business	Consumers	The Law	Env ^{tal} Tools
Immaturity	1994	Sectoral laws not effective on env ^{tal} mgt	Post-Rio consciousness – “green is important”	National Environmental Action Plan (NEAP)	Inception <ul style="list-style-type: none"> ✓ env^{tal} structures in place + policy ✓ Annexe-2 has EIA plan
Reaction	1999	Enactment of laws on env ^{tal} mgt	Delight at a number of “green” products	Environmental Management and Coordination (EMCA) of 1999	Framework for EIA/EA

(Adapting from Sadgrove 1999)



Kenyan perspectives of env^{tal} consciousness and mgt tools

(to ensure sustainability and community benefits and opportunities for the present and future generations from developmental interventions)

Phase	Period	Business	Consumers	The Law	Env ^{tal} Tools
Maturity	2003	Env ^{tal} Mgt Systems , Life-cycle Assessments started	Env ^{tal} performance evaluation; Env ^{tal} audit & labelling;; Env ^{tal} aspects in product standards ; Green-living; green accounting; Carbon-trading / offset business; CDM, etc	EMCA EIA/EA regulations and guidelines (Legal Notice No 101) for projects	EIA/EA formally started+ EMP'S NEMA's 4 Env ^{tal} mgt regulations
	2009		Stakeholders expects full participation The Lamu Port Case	SEA regulations and guidelines (amended Legal Notice No 101) for policy, plans, programs (PPP)	SEA formally started + EMP'S Additional NEMA's 2 Env ^{tal} regulations
	2010		Role of stakeholders enshrined by Law The obligations, enforcement, agreements & Legislation enshrined The modern era Kenya.	New constitution; Vision 2030; New constitution – Env Div of Env of High Court Court actions on env becoming more common	As above + New Constitutional provisions relating to Env ^{tal} regulations, offenses and reparations

(Adapting from Sadgrove 1999)



Talk Progress ...

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Foundations of the Environment – Constitution 2010

Significant notes

1. The National Constitution (2010) - Environmental Provisions

- **Chapter 4** ← Rights and Fundamental Freedoms
- **Chapter 5** ← Land and Environment
 - ✓ Subcategories
 - ❖ Part 1. Land
 - ❖ Part 2. Environment and Natural Resources
- **Chapter 10** ← Judicial Authority and Legal System
- **4th Schedule** ← National vs County Govt

THE CONSTITUTION OF KENYA - 2010





Foundations of the Environment – Constitution 2010

Significant notes

1. The National Constitution (2010) - Environmental Provisions

➤ **Chapter 4** – Rights and Fundamental Freedoms:

Article 42 states:

- ✓ Every person has the right to a **clean and healthy environment**, which includes the right:
 - a) To have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
 - b) To have obligations relating to the environment fulfilled under Article 70.11



Foundations of the Environment – Constitution 2010

Significant notes

1. The National Constitution (2010) - Environmental Provisions

➤ **Chapter 5** – Land and Environment

✓ Subcategories

❖ **Part 2. Environment and Natural Resources**

■ 4 Articles

- I. Obligations (10 clauses),
- II. Enforcement,
- III. Agreements
- IV. Legislation



Relating to the Environment



Foundations of the Environment – Constitution 2010

Significant notes

1. The National Constitution (2010) - Environmental Provisions

➤ **Chapter 10** – Judicial Authority and Legal System

Article 162 states:

- ✓ Parliament shall establish courts with the status of the **High Court** to hear and determine disputes relating to ... the **environment** and the use and occupation of, and title to, land





Foundations of the Environment – Constitution 2010

1. The National Constitution ctd

- Hence, the Constitution has strong mechanisms for **environmental management** including:

- I. Considerations and obligations,
- II. Co-ordinations and controls
- III. Participations and say
- IV. Legislation, and
- V. Enforcement

Safeguards measures

- To ensure **sustainable use** of available **resources** and **opportunities** for the present and future generations



Foundations of the Environment – VISION 2030

Significant notes



2. Vision 2030 Statement

- The aim of Kenya Vision 2030 is “the globally competitive and prosperous country with a high quality of life by 2030”
- It aims at transforming Kenya into “a newly industrializing, middle income country providing a high quality of life to all its citizens in a **clean and secure environment**”



Foundations of the Environment – VISION 2030

2. Vision 2030 Statement ctd



- The vision has identified **flagship developmental projects** in every sector, including **water and environment**.
- In addition the vision has flagged out developmental projects addressing the **MDGs** directly in key sectors such as agriculture, education, health, **water and environment**.
- Economic growth and environment are closely intertwined in Kenya, hence need for **environmental management**, hence **“safeguards”**



Safeguards – env^{tal} and social

Environmental safeguards address environmental goods and services and includes

- Ecosystems,
- Habitats,
- Species,
- Genetic integrity,
- Env^{tal} Quality.

Social safeguards address individual, societal / community benefits and opportunities, and includes

- Equity to access, knowledge, benefit-sharing, livelihoods, etc., arising from env^{tal} goods and services,
- Indigenous peoples rights,
- Cultural issues,
- Disposition, Displacement and Resettlement issues,
- Minimizing disputes.



Safeguards – scope

- **Safeguards** scope involves **tools used for environmental planning and management**
- It includes the **policies, laws, process** and **action plans**
- May involve **guidelines** and **procedures** as well as **standards**
- In order to achieve
 - ✓ Control, Coordination and enforcement
 - ✓ Conformance and compliance
 - ✓ (to ensure) sustainable resource use that balances the natural environment's ability to meet these demands sustainably



Talk Progress ...

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Ocean Management – Strategic importance of ocean waters

Ocean Resources:

- Fisheries,
- marine mammals,
- Biomedical/biological
- Sedentary species
- wide range of marine biodiversity
- Oil and Gas
- Mineral resources

Ocean Uses:

1. Aquaculture and seaweed farming,
2. Tourism and recreation,
3. Marine transport,
4. Shipping and ship building,
5. Research and development,
6. Ports and harbors,
7. Energy generation,
8. Maritime commerce and trade.

Ocean management and Safeguards considerations vital



Ocean Management – Global perspective on internal waters, territorial waters, contiguous zone, EEZ, and continental waters

1. Rights and obligations of a coastal state

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tions Co

Uses of the Ocean

✓ Exploitation of living

2. UNCLOS has been followed by a series of more international, regional and national initiatives

INTERNATIONAL FRONT

- ✓ UNCED (Chapter 17 of Agenda 21),
 - protection of the oceans and seas of all kinds and coastal areas ,
 - outlines the needs, priorities and guiding principles for all nations in as far as the management of the ocean is concerned;

n



Ocean Management – Global perspective on internal waters, territorial waters, contiguous zone, EEZ, and continental waters

INTERNATIONAL FRONT (CTD),

- ✓ Global Programme of Action (**GPA**) for the Protection of the Marine Environment from Land-Based Sources
- ✓ Convention on Biological Diversity (**CBD**)
- ✓ **FAO** Code of Conduct for **Responsible Fishing**



Ocean Management – Global perspective on internal waters, territorial waters, contiguous zone, EEZ, and continental waters

INTERNATIONAL FRONT (CTD),

- ✓ United Nations Conference on Sustainable Development (Rio+20)
 - **conservation** and sustainable use of the oceans and seas and of their resources for **sustainable development** ,
 - **protecting** biodiversity and the marine environment and addressing the **impacts of climate change**,
 - **ecosystem approach** in the management of activities having an impact on the marine environment;



Management instruments

International Ocean Treaties and Conventions to which Kenya is a Member

Short Title	Long Title
African Convention	African Convention on the Conservation of Nature and Natural Resources
World Heritage Convention	Convention concerning the Protection of the World Cultural and Natural Heritage
Nairobi Convention	Convention for the Protection, Management, and Development of the Marine and Coastal Environment of the Eastern African Region
CBD	Convention on Biological Diversity
Living Res. of the High Seas Cnvt.	Convention on Fishing and Conservation of the Living Resources of the High Seas
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMS	Convention on the Conservation of Migratory Species of Wild Animals
Continental Shelf Convention	Convention on the Continental Shelf
High Seas Convention	Convention on the High Seas
IMO Convention	Convention on the International Maritime Organization
London Dumping Convention	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter



Management instruments

International Ocean Treaties and Conventions to which Kenya is a Member

Short Title	Long Title
Territorial Sea Convention	Convention on the Territorial Sea and the Contiguous Zone
Ramsar Convention	Convention on Wetlands of International Importance especially as Waterfowl Habitat
Lome IV	Fourth ACP - EEC Convention
IOFC	Indian Ocean Fishery Commission
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships
IPPC	International Plant Protection Convention
IWC	International Whaling Commission
MP	Montreal Protocol for the Protection of the Ozone Layer
IOMAC	Organization for Indian Ocean Marine Affairs
SEACAM	Secretariat for Eastern African Coastal Area Management
SOLAS	International Convention for the Safety of Life at Sea
	Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water
UNCLOS	United Nations Convention on the Law of the Sea
UNFCCC	United Nations Framework Convention on Climate Change



Ocean Management – Regional perspective on internal waters, territorial waters, contiguous zone, EEZ, and continental waters

REGIONAL FRONT

- The Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, also known as the **Nairobi convention of 1985**
- The **Arusha Resolution of 1993** on integrated coastal management



Ocean Management – Kenyan perspective on internal waters, territorial waters, contiguous zone, EEZ, and continental waters

NATIONAL PERSPECTIVE – OCEAN POLICY REACTIONS

- The development of a National Ocean and Fisheries Policy – MALFD
- The development of a National Ocean Policy – CABINET MEMO
- The development of an Integrated National Ocean Policy – CABINET MEMO
- Kenya National Oceanographic and Hydrographic Commission – CABINET MEMO



Ocean Management – Kenyan perspective territorial waters, contiguous zone, E

NATIONAL PERSPECTIVE – OCEAN ACTION AREAS

1. Kenya has ratified the United Nations Convention on the Law of the Sea (Registration: 16 November 1994, No. 31363) (Kenya Dec 1982, 2 Mar 1989), and a number of international instruments.
2. Kenya has **adopted best practices** in a series of international instruments to manage her coastal and ocean spaces in a more holistic manner.
 - Strategies such as Integrated Coastal Management
 - ✓ Kenya has **Integrated Coastal Zone Management**
 - ✓ Kenya has a number of **sectoral policies** covering



Ministry of Environment
and Mineral Resources



NEMA -Kenya

INTEGRATED COASTAL ZONE MANAGEMENT (ICZM) ACTION PLAN FOR KENYA, 2010 - 2014





Ocean Management – Kenyan perspective on internal waters, territorial waters, contiguous zone, EEZ, and continental waters

Decree / Law	Decree / Law No	Year Enacted	Latest review
Continental Shelf Act	312	1975	<i>Repealed by Maritime Zones Act, Cap 371</i>
Kenya Ports Authority Act	391	1979	Revised Edition 2012 [1979]
Wildlife Conservation and Management Act	376	1985	Revised Edition 2009 (1985)
Petroleum (Exploration and Production Act)	308	1986	Revised Edition 2012 [1984]
Mining Act	306	1987	The Mining Bill, 2014 [1987]
Maritime Zones Act	371	1989	
Fisheries Act	378	1991	Revised Edition 2012 [1991]
Local Government Act	265	1998	County Governments Act, 2012
Environmental Management and Coordination Act	8	1999	

Other Ocean Management Approaches and Tools to address Cross Sectoral Issues

1. **Integrated Coastal** (Zone, Area) Management
2. **Spatial Planning** and Zonation (Physical planning tools)
3. **Protected Area Management** [e.g., Marine PA, Forest (mangroves), Breeding, nursery areas and no-take areas (Fisheries)]
4. **Special area planning** e.g., In bays and estuaries, ports and harbours, special economic zones, critical habitat (coral reefs, seagrass beds, mangroves, mudflats, sand-dunes), Community-based management – **CBOs, BMU, CFAs**
5. **Large Marine Ecosystem** e.g., Somali coastal current LME
6. **Ecosystem Approach** [research and impact analysis tools for marine environment (including land-based sources of pollution, TDA, Global climate change predictions)]

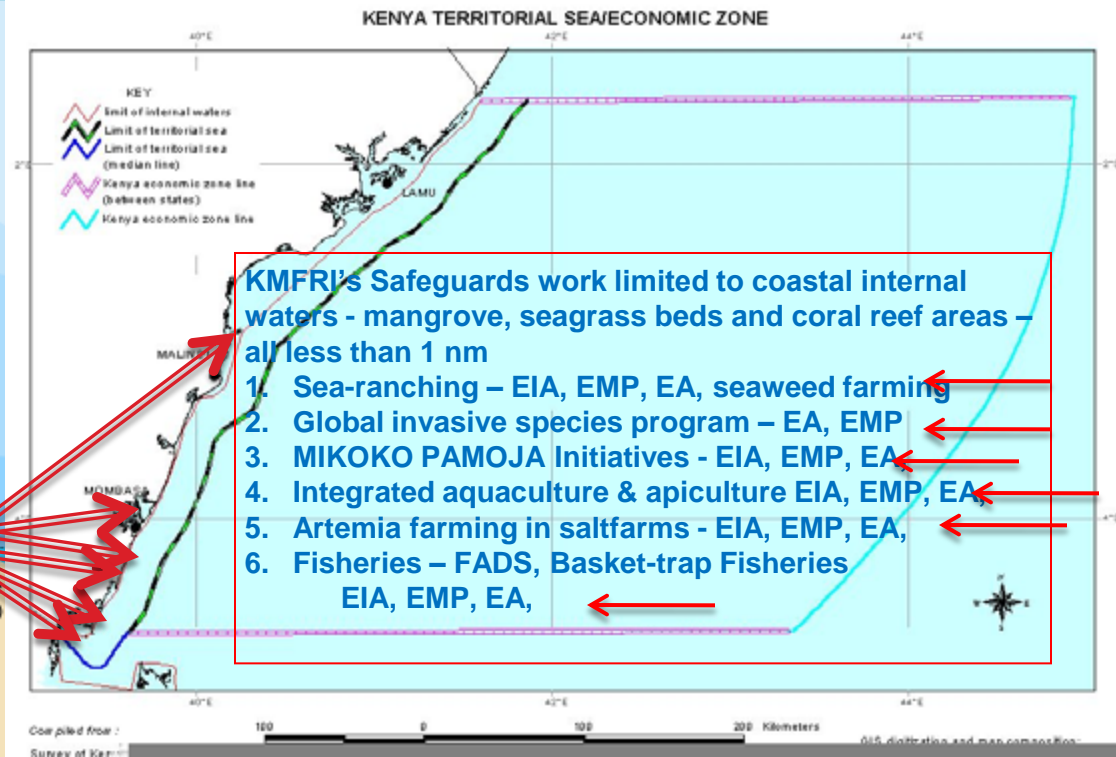
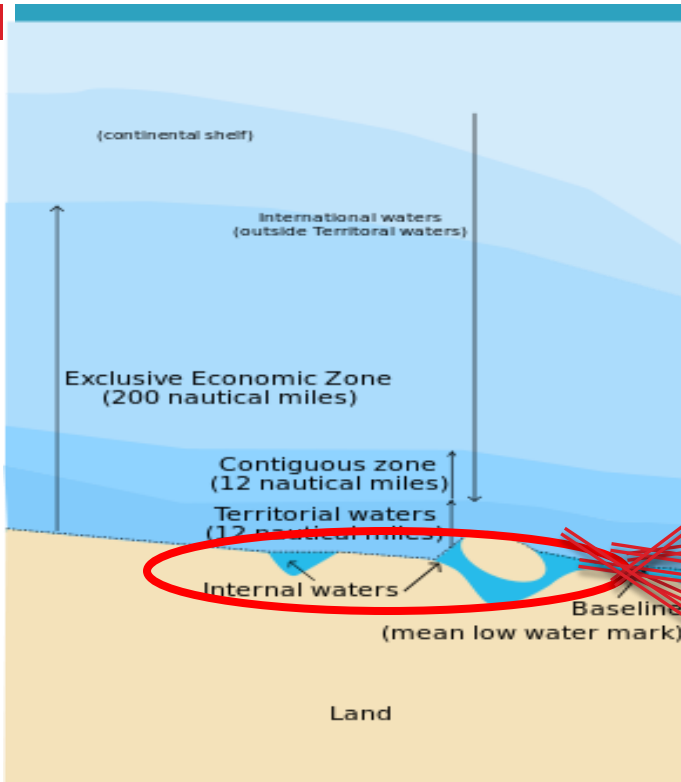


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KMFRI work - compliance / conformance to Oceans and coastal safeguard requirements

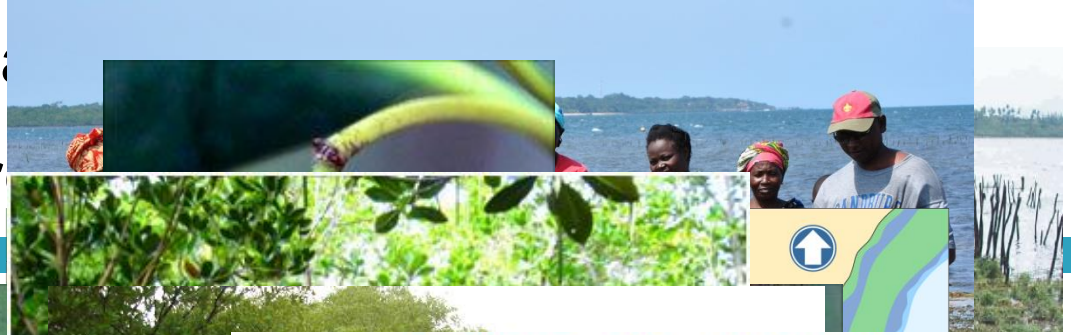


KMFRI's Safeguards work limited to coastal internal waters - mangrove, seagrass beds and coral reef areas – all less than 1 nm

1. Sea-ranching – EIA, EMP, EA, seaweed farming
2. Global invasive species program – EA, EMP
3. MIKOKO PAMOJA Initiatives - EIA, EMP, EA
4. Integrated aquaculture & apiculture EIA, EMP, EA
5. Artemia farming in saltfarms - EIA, EMP, EA,
6. Fisheries – FADS, Basket-trap Fisheries
EIA, EMP, EA,



KMFRI work - compliance and coastal safeguard



KMFRI's Safeguards work illustrations:

1. **AQ** - Sea-ranching – seaweed farming
2. **ENV** - Global invasive species program
3. **ENV** – MIKOKO PAMOJA Initiatives
4. **AQ** - Integrated aquaculture & apiculture
5. **AQ** - Artemia farming in saltfarms
6. **FISHERIES** – Basket-trap, FADS
Planned



UVUVI WA MALEMA





KMFRI work - compliance / conformance to Oceans and



Appli
Regis

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY
THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS

This is to certify that the Project Report/Environmental Impact Assessment of individual/firm) submitted to the National Environment Management Authority in accordance with the Environmental Management and Coordination Act, 1992 (Cap 370) and the Environmental Impact Assessment Regulations, 2003 (S.I. No. 107) regarding the proposed demonstration farm for cottonii and commercial sea weed farming at KIBUYUNI, MKWIRO ON WASIMI ISLAND, FUNZI BAY SOUTH COAST - MSAMBWENI DISTRICT has been reviewed and a licence is hereby issued for implementation of the project under the following conditions.

Dated this 16TH

Signature

KENYA PLANT HEALTH INSPECTOR

HEADQUARTERS - Oloolua Rid
P. O. Box 49593 00100 GPO Nairobi, Kenya. Tel: 3336071 / 3336072. Mombasa office
Fax: 3336075 / 882265. E-mail: director@kephis.org / kephisinfo@gmail.com

Our Ref: PH/3/59/Vol 12/69

Kenya Marine Fisheries Research Institute
Headquarters
P.O. Box 81651
MOMBASA
Email: elishamrabu@yahoo.com

RE: INTRODUCTION OF SEA-WEED SPECIES FOR EXPERIMENTATION AND LATER COMMERCIALIZATION

Reference is made to your application to introduce the sea weed *Kappaphycus* into Pemba, Tanzania.

The Kenya Standing Technical Committee on Plant Health considered the application at the meeting held on 27th October 2013 and granted you approval to import *Kappaphycus* only.

KEPHIS will come up with a monitoring plan required to have an internal monitoring program to detect any adverse effects that may arise during the research.

Upon completion of the 1 year research duration, you will be held to discuss the cost benefit of the project for commercialization.


Dr. Joseph Ahenda
GENERAL MANAGER, INSPECTION OPERATIONS

C. C. The Secretary/Chief Executive
Ministry of Agriculture
P. O. Box 30028
NAIROBI

for
Director General
The National Environment Management Authority



KENYA PLANT HEALTH INSPECTORATE SERVICE HEADQUARTERS - Oloolua Ridge, Karen

P. O. Box 49593 00100 GPO Nairobi, Kenya. Tel: 3336171 / 3336172 / 3367201 / 3367202 / 3367203. Mombasa: 8722 516221 / 8723 708719 / 0133 854054
0734 074141. Fax: 353 0175. E-mail: director@kephis.org / kaphisinfo@kephis.org. Website: www.kephis.org

REF: KEPHIS/HQ/3/59 Vol. 15(369)

Date: 4th November 2013

The Director
Kenya Marine & Fisheries Research Institute
P. O. Box 81651-80100
MOMBASA
Email: pgwada@kmfri.co.ke, bnyonje@hotmail.com

Dear Sir/Madam

RE: Report on trial on *Kappaphycus alvarezii* sea weed for experimentation and later commercialization

The report on trial on *Kappaphycus alvarezii* sea weed for experimentation and later commercialization was received by KEPHIS and discussed in the KSTCIE committee meeting held on 3rd October 2013.

The committee deliberated on the application and approved commercialisation with the following conditions;

- KEPHIS to provide documentation to indicate commitment and absolute responsibility to the uncontrolled release activity (commercialisation) and the available environmental monitoring plan.
- KEPHIS to provide details of the available Environmental Monitoring plan
- KEPHIS to implement the EMP and inform KSTCIE on any noted negative effect and the measures in place
- KEPHIS to provide bi-annual progress reports to KSTCIE for update
- Annual inspection should be done by a team drawn from relevant regulatory institutions including Kenya Wildlife Service, Fisheries Department, National Environment Management Authority and Kenya Plant Health Inspectorate Service. KEPHIS to facilitate the inspections.

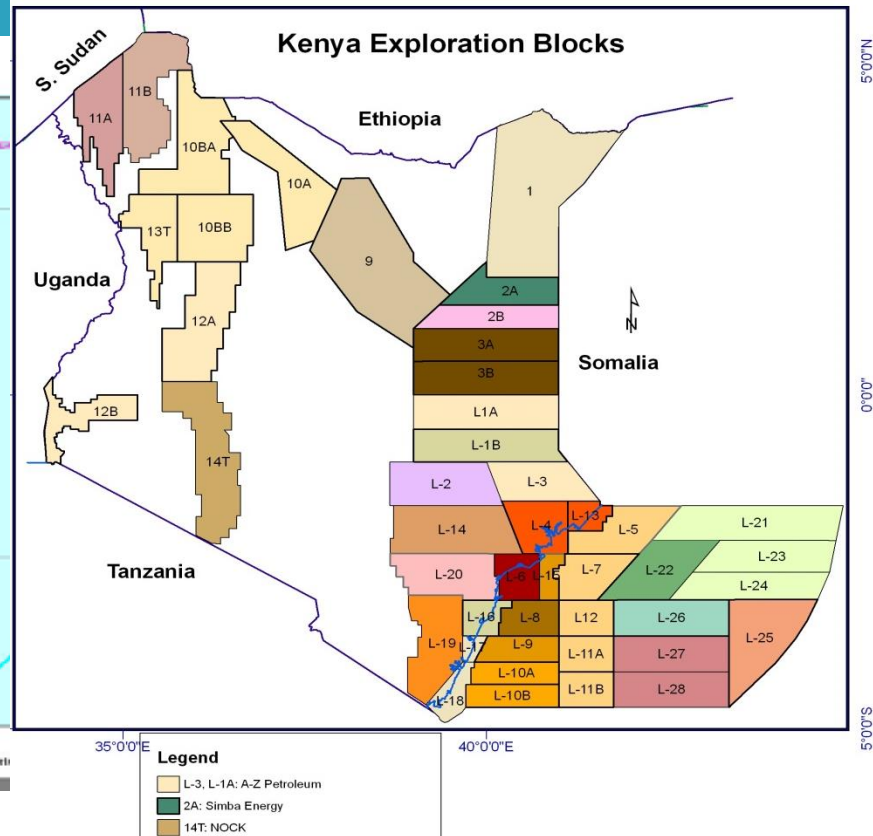
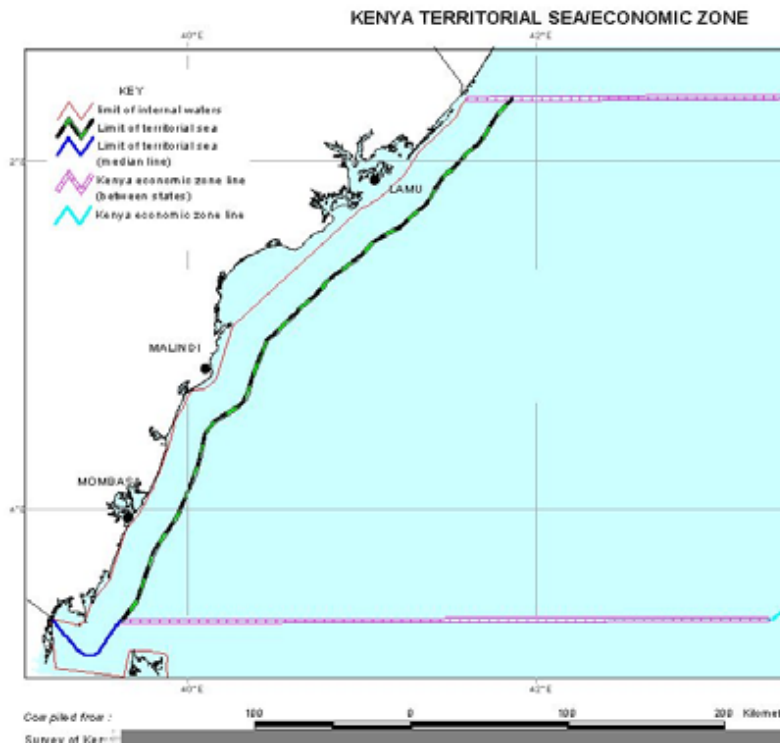

Esther Kimani, PhD
General Manager-Phytosanitary Services
For: MANAGING DIRECTOR



Challenges – ????



EEZ and Deep sea (Oceanic)





Some Environmental Issues

June 2014

WIOMSA Newsbrief

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Regulating Noise Pollution from Offshore Oil and Gas Exploration in Kenya

By Dr. Nicholas Kimani



Whales are among the marine animals known attributed to sources of anthropogenic sound.

FLORA AND FAUNA

Mass Dolphin Deaths Off Zanzibar A Mystery

by Staff Writers
Zanzibar, Tanzania (AFP) May 03, 2006

Scientists probing the deaths of hundreds of dolphins that beached themselves on Tanzania's Zanzibar archipelago last week said Tuesday they had no idea yet what caused the phenomenon.

A team from the Zanzibar-based University of Dar es Salaam's Institute of Marine Sciences said a preliminary investigation into the mass stranding of nearly 800 bottlenose dolphins had failed to yield an explanation.

"We have not yet been able to determine what has exactly caused the strandings," it said in a report. "We are still doing more investigation and ... in a few weeks' time we may come out with some answers."



A man walks among carcasses of Bottlenose dolphin on a beach in Zanzibar, 28 April 2006 after several hundred dolphins washed ashore. Witnesses said that at least 300 carcasses were littered across four beaches of the semi-autonomous Zanzibar archipelago on Friday morning, some 50 kilometres from the Indian ocean island's capital. Photo courtesy of AFP and STR.



Opportunities under RV Mtafiti





Opportunities under RV Mtafiti



vliruos
SHARING MINDS, CHANGING LIVES



1. Scheduled Research and Rapid Env. assessments - EBM, Resource Assessment, Planning, Hazard Assessment, Activity Impact,
2. Scheduled Environmental Audits and Status Assessments
3. Scheduled Access to Monitoring Sites / areas – oil and gas, fishing, mining
4. Off-shore Monitoring Platforms
5. Observer Programs for Flagged Environmental Issues
6. M & E on interventions and agreed EMP's

E2369



**ENVIRONMENTAL AND SOCIAL MANAGEMENT
FRAMEWORK & INDIGENOUS PEOPLE'S
PLANNING FRAMEWORK
FOR
THE KENYA COASTAL DEVELOPMENT PROJECT**



14 0 ADDENDICES

Thank you
for
listening!

