

TERMS OF REFERENCE FOR POLICY AND LEGAL AFFAIRS UNIT

Introduction:

As a regulatory Agency, one of the main responsibilities of NEA is ensuring implementation of policy and legislative framework designed to protect and preserve the environment. This is necessary particularly in view of increasing challenges (both domestic and international) that invariably will undermine environmental sustainability unless proactive measures to adopted.

At domestic level, the Gambia is on a path to development, which industrialization is a primary focus to maximizing food production and processing of raw material in to finished goods. The need to ensure food self sufficiency through enhancing agricultural productivity could result in loss of vegetation cover as well as contamination of land and water bodies (both surface and underground water) through the use of agricultural chemicals. Farm mechanization will unavoidably lead to destruction of soil structure overtime, unless there is adequate training on the use of machines.

Furthermore, the quest to industrialize to promote local processing and create employment opportunities for the citizenry to boost the economy is in indeed a laudable initiative. The Gambia has an enormous potential for industrial growth especially in consideration of the fact that quite a number of resources exist that could be processed and exported. However, industrial evolution comes with its own environmental challenges such as emission of harmful gases, discharge of both hazardous liquid and hazardous solid waste that has potential to effect deleterious effects on the environment and public health.

At present, The Gambia has limited industries but there are key sectors of the natural resources sector being exploited namely the mining sector, the fisheries sector, the hydrocarbon, etc. For over several decades, there has been extensive exploitation of sand and gravel for the construction industry. Sand mining particularly mainly targeted the sand dunes along the coast line, which aggravated coastal erosion thereby exposing the coastal infrastructure to the risk. Gravel mining also resulted in destruction of virgin forest in some communities in the regions. The lack of proper rehabilitation of these mines after the sand and gravel deposits have been extracted result in numerous environmental challenges. The fisheries sector, on the other hand, has witnessed unprecedented levels of exploitation in the past few years. Of recent, the arrival of fish meal factories add to the existing challenges, a phenomenon that could result in catching of juvenile fish thereby undermining stock replenishment potentials.

At the international level, The Gambia has signed and rectified a number of MEAs notably the UNFCCC and its associated agreement/protocols, Basel Convention on trans-boundary movement of hazardous waste, Rotterdam Convention on prior informed consent procedure, Stockholm Convention persistent organic pollutants, the Vienna Convention on Ozone Depleting Substances and its associated protocols, the Minamata Convention on Mercury, etc. The country needs to honour these international commitments and make efforts to realize their set objectives.

In light of the foregoing, it has become ever more prudent to create a specialize unit to focus exclusively on policy and legislative issues that govern the relevant challenges so as to enable a guided approach.

Institutional context:

NEMA 1994 is the main legal framework for the establishment of the Agency for the implementation/ enforcement of policies and laws related to the protection and preservation of the environment. The Act creates National Environment Management council (NEMC) as the top decision making organ in relation to the environment. The NEMC meets as and when necessary to decide mainly on policy matters. The Agency, which is the secretariat of environmental matters, enforces policy decisions adopted at NEMEC and all environmental legislations.

As outlined in the GEAPs, and being the norm for the operation, an integrated approach to deal with issues is a cherished tradition, which has over the course of the Agency's existence proofed dividend in implementing relevant actions.

Priority Areas:

There are nine (9) programme areas in the Agency that focus on specific environmental issues. These programme areas sometimes implement their activities together through intra-Agency collaboration as well work with outside stakeholders by a way of inter-sectoral network.

The policy and legislation unit is expected to focus on areas of these other nine (9) programme units but specifically on the policy and legislative components. The main objective will be to ensuring that policy and legal framework that guides the various activities are adequate through regular review. The main priority will be to review the existing legal frameworks and conduct gap analysis to enhance institutional strengthening.

Another priority area will be the MEAs that the country signed and ratified. The Unit's job will be to ensure that the Agency is provided with adequate regal advice for informed decision making and appropriate actions to help the country honour its obligation.

Responsibilities of policy and legal affairs Unit

The overarching aim of PLAU will be to guide the operation of the Agency and ensure such are within the ambit of law. The specific responsibilities will entail the following:

Enhancing the strengthening of environmental policies through:

- Represent the Agency in national policy reviews and promote synergies with other sector stakeholder institutions in government, the UN represented institutions in the country as well as the private sector.

- Draft briefings/minutes on key areas of National Environment Agency's work in advance of meetings;
- Organize and coordinate meetings on behalf of the Agency relative to environmental policy and make follow ups to ensure agreed actions are taken forward;
- Represent the Agency at important sub-regional, regional and global environmental policy forums and ensure implementation of agreed actions point at national level.
- Draft reports, briefing papers, formal correspondence, presentations, and other documents articulating National Environment Agency's policy positions;
- Ensuring National Environment Agency's policy work fits within the wider policy landscape and that the policy team remains up to date with relevant research and policy developments.

Strengthening of the legal framework through:

- Conducting a gap analysis of the existing environmental legislations to ensure adequacy and desirability.
- Initiate and formulate draft legislations on issues of environmental concern to be put forward to the cabinet and national assembly for their consideration.
- Carry out regular review of Acts and regulations to making sure that emerging issues are captured.

Providing adequate legal advice to the Agency:

- Review all legal documents for and emanating from the Agency in relation to the environment and natural resources management.
- Advice the executive Director on matters as and when necessary.
- Vet all permits/approvals/licenses granted by the Agency before they are issued to applicants.
- Take part in and support the country team during international meetings on matters with legal ramifications such as during conferences of parties (COPs) on MEAs;
- Conduct legal research and proffer legal opinions on environmental issues of national relevance;

- Draft all contract documents by the Agency and between the Agency and other parties, including contract of service, contract for service, staff bonds, tenders, etc in accordance with rules stipulated by the Agency`s manual of procedures and other relevant national policies.
- Liaise with the Attorney General and external lawyers on Agency`s legal matters;

Coordinate litigation and associated legal issues:

- Represent the Agency in all legal suit either instituted by the Agency or against the Agency.
- Coordinate all activities of the environment court through effective collaboration with AG. Chambers and judiciary.
- Vet all abatement/improvement/enforcement notices served in the name of Agency on violators before they are issued.
- Collate and provide quarterly report of all litigations by the Agency at the courts to be submitted to the Executive Director for informed decision making.

Key Contacts

The PLAU will be directly under the Director of Technical Service Network. The Unit will work closely with other programme areas to maintain an existing integrated approach. The spirit of cooperation with other relevant stakeholders, notably the AG. Chambers, the Judiciary as well as others will also maintained and strengthened. At the international Level, collaboration with various MEAs will be further enhanced by making sure that the PLAU take part in all relevant COPs to give the national team adequate legal back stocking.

Annex A: PLA Program Staff:

- Senior Programme Officer (SPO)
- Programme Officer (PO)
- Programme Assistant (PA)

Annex B: PLA Working Group

- Ministry of Forestry, Environment, Climate Change and Natural Resources (Chair)
- National Environment Agency (Co-chair and Secretariat)
- Attorney Generals Chamber and Ministry of Justice
- The office of the Chief Justice and Judiciary
- Inspector General and the Police
- Immigration Department
- Gambia Revenue Authority/Customs
- Department of Forestry
- Department of Parks and Wildlife Management
- Department of Fisheries
- Department of Agriculture
- Department of Livestock Services
- Ministry of Interior
- Ministry of Defense
- Department of Physical Planning and Housing
- Geological Department
- Gambia Ports Authority
- Department of Labour
- Gambia Maritime Administration
- The Association of Non-government Organization (TANGO)

Specific task of the PLA Working Group

- i. Provide guidance and serves as the advisory body to the PLA programme.
- ii. Quarterly meetings to review the activities and plans of the PLA program.

- iii. In collaboration with the NEA Programme heads, conduct quarterly industrial visits to ascertain compliance with the safety and security recommendations.
- iv. Review the developed emergency response plans for common environmental or related disasters including oil spills, chemical incidences, gas explosions, etc. by concerned institutions.
- v. Evaluate the effectiveness of the response mechanisms in place and make recommendations.
- vi. Approve the yearly 'Green Industry Award'.

Annex C: PLA Technical Team

- Research and development Manager
- Senior Programme Officer – PLA
- Senior Programme officer -EEMR
- Senior Programme Officer – Environmental Quality
- Senior Programme Officer – Environmental Impact Assessment
- Senior Programme Officer – Hazardous Chemicals & Pesticides Management
- Senior Programme Officer – Coastal and Marine Environment
- Senior Programme Officer – Agriculture and Natural Resources
- Senior Programme Officer – Environmental Education & Communication
- Senior Programme Officer – Environmental Information Systems
- Principal Environmental Inspector

Specific task of the Technical Team

In the first few hours of an environmental emergency, the technical team shall:

- i. Conduct a rapid assessments,
- ii. Confirm for the presence of possible bridge of laws and regulations,
- iii. Analyze the possible impacts on communities and the ecosystem, and report to the working group and relevant stakeholders to help develop strategies to respond.
- iv. Conduct the yearly industrial environmental auditing and submit results to the working group with recommendations.