

**EAST AFRICAN COMMUNITY
LAKE VICTORIA BASIN COMMISSION SECRETARIAT**



**PROPOSED OPTIONS FOR ESTABLISHING LAKE VICTORIA
ENVIRONMENTAL TRUST FUND AND SOURCES OF FINANCING**



**FOR SUSTAINABLE
MANAGEMENT OF LAKE VICTORIA BASIN ENVIRONMENT AND NATURAL
RESOURCES**



World Bank



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TABLE OF CONTENTS

ABBREVIATIONS	7
PREFACE	12
ACKNOWLEDGMENTS	14
EXECUTIVE SUMMARY	17
CHAPTER 1. INTRODUCTION	28
CHAPTER 2. ENVIRONMENTAL FUNDS, AN OVERVIEW AND DESCRIPTION OF CASE STUDIES 35	
2.1 ENVIRONMENTAL AND CONSERVATION TRUST FUNDS:.....	35
2.2 PERFORMANCE OF ENVIRONMENTAL TRUST FUNDS.....	36
2.3 TYPES OF ENVIRONMENTAL TRUST FUNDS	37
2.4 KEY LESSONS LEARNED WITH ENVIRONMENTAL FUNDS.....	39
2.5 LEGAL FRAMEWORK AND AGREEMENTS.....	40
2.6 GOVERNANCE	41
2.7 FINANCING AND RETURN ON INVESTMENT	42
2.8 EVOLVING OF ETFs.....	43
2.9 AFRICAN ENVIRONMENTAL TRUST FUNDS; SUCCESS AND FAILURE.....	44
2.9.1. SUCCESS AND FAILURE	44
2.9.3. GOVERNANCE AND MANAGEMENT	46
2.9.4. ACCOUNTABILITY.....	48
2.10 NATIONAL ENVIRONMENTAL TRUST FUNDS IN EASTERN AFRICA	49
2.10.1. THE BWINDI MGAHINGA CONSERVATION TRUST (BMCT) IN UGANDA	49
2.10.2. THE EASTERN ARC MOUNTAINS CONSERVATION ENDOWMENT FUND.....	52
2.10.3. THE NATIONAL ENVIRONMENT TRUST FUND - KENYA	53
2.10.4. NATIONAL FUND FOR ENVIRONMENT (FONERWA) IN RWANDA.....	55

2.11	REGIONAL TRUST FUNDS AND FINANCING INSTRUMENTS.....	57
2.11.1.	CARIBBEAN CATASTROPHE RISK INSURANCE FACILITY - CCRIF	57
2.12	IMPLICATIONS FOR THE LVETF	61
CHAPTER 3. JUSTIFICATION, OBJECTIVES, SCOPE OF THE LVETF AND CURRENT FINANCING ARRANGEMENTS IN THE BASIN.....		64
3.1	JUSTIFICATION	64
3.2	RATIONALE FOR ADDITIONAL AND INNOVATIVE FUNDING MECHANISMS FOR THE BASIN	66
3.3	KEY OBJECTIVES OF THE LVETF.....	68
3.4	FINANCING THE LAKE VICTORIA ENVIRONMENTAL TRUST FUND (LVETF).....	71
a)	<i>Current finance for the environment in LVB.....</i>	<i>72</i>
b)	<i>Gap analysis for environmental management.....</i>	<i>79</i>
c)	<i>Sustainability of the financial resource base</i>	<i>81</i>
CHAPTER 4. PROSPECTIVE FINANCIAL RESOURCES		88
4.1	MEMBER STATES.....	88
4.1	DEVELOPMENT PARTNERS.....	88
4.2	FOUNDATION AND PRIVATE SECTOR FUNDING	90
4.3	COST RECOVERY	91
4.4	DEBT FOR NATURE SWAPS	92
4.5	ENVIRONMENTAL OR ECOSYSTEM MARKETS	93
4.5.1	<i>Payment for environmental / ecosystem services.....</i>	<i>93</i>
4.5.2	<i>Environmental / ecosystem services relevance to the Lake Victoria Basin.....</i>	<i>96</i>
4.5.3	<i>Summary of key recommendations on PES as financing for the LVETF.....</i>	<i>112</i>
4.6	CONCLUSION: ANALYSIS OF PROSPECTIVE FUNDING SOURCES AND MECHANISMS FOR FINANCING FOR THE LVETF	115
CHAPTER 5. LEGAL AND INSTITUTIONAL FRAMEWORKS FOR THE LVETF		117
5.1	INTRODUCTION	117

5.2	LEGAL FRAMEWORKS FOR ESTABLISHING TRUST FUNDS IN MEMBER STATES	117
5.2.1	<i>Review of trust related legislation in Kenya, Tanzania and Uganda</i>	<i>118</i>
5.2.2	<i>General observation on Trustee legislation in Kenya and Uganda</i>	<i>120</i>
5.2.3.	LEGAL FRAMEWORK FOR ESTABLISHING A TRUST FUND UNDER THE EAC TREATY AND/OR LVBC PROTOCOL.....	126
5.2.4.	LEGAL FRAMEWORK FOR ESTABLISHING A TRUST FUND OUTSIDE THE EAC.....	129
5.3	INSTITUTIONAL ARRANGEMENT FOR THE LV ETF	131
5.3.1	<i>EAC institutional frameworks</i>	<i>132</i>
5.3.2	<i>Common wealth trust fund institutional framework.....</i>	<i>135</i>
5.3.3	<i>Non-EAC state foundation institutional framework</i>	<i>137</i>
5.3.4	<i>Administrative organisation.....</i>	<i>139</i>
5.3.5	<i>Additional institutional considerations</i>	<i>140</i>
5.4	KEY PLAYERS AND SERVICE PROVIDERS FOR THE LVETF	142
5.5	CAPACITY BUILDING REQUIREMENTS FOR IMPLEMENTATION OF THE LVTEF	144
5.5.1	<i>Capacity building for fundraising specifically with the private sector and foundations and in global and local environmental market.....</i>	<i>147</i>
5.5.2	<i>Capacity building to ensure strong stakeholder involvement</i>	<i>147</i>
5.5.3	<i>Capacity building for external communications and strong networking.....</i>	<i>148</i>
CHAPTER 6.	OPTIONS FOR ESTABLISHING THE LVETF, RECOMMENDATIONS, NEXT STEPS AND GENERAL CONCLUSIONS.....	149
6.1	OPTIONS FOR ESTABLISHING THE LVETF.....	149
6.1.1	<i>Option 1: LVETF nested in an EAC institution.....</i>	<i>150</i>
6.1.2	<i>Option 2: LVETF as a new EAC institution.....</i>	<i>157</i>
6.1.3	<i>Option 3: LVETF as a public-private partnership.....</i>	<i>162</i>
6.2	DISCUSSION.....	170
6.3	SYNTHESIS OF THE PROPOSED OPTIONS.....	172
6.4	RECOMMENDATIONS AND NEXT STEPS	177

6.5	SUGGESTED ACTION PLAN TO ESTABLISH THE LVETF	181
6.6	OBJECTIVE	181
6.7	GENERAL CONCLUSIONS.....	188

REFERENCES.....	190
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LIST OF FIGURES

Figure 1: Map of the lake victoria- Source: Clean LAKES INC 2001.....	28
Figure 2: River Kagera draining into lake victoria with silt and water hyacinth.....	32
Figure 3: swot analysis of african Environmental trust funds.....	45
Figure 4: basic governance structure of an environmental fund	47
Figure 5: percentage contribution from eac partner states and development partners (donor) Source –LVBC report 2011.....	65
Figure 6: wildlife as source of tourism and income	106
Figure 7: Mau forest -2007.....	107
Figure 8: Mount elgon ecosystem	109
Figure 9: Institutional framework of LVETF as a new eac insitution	133
Figure 10: institutional framework of LVETF embedded in an existing eac insitution.....	134
Figure 11: insitutional framework of LVETF as a trust fund under commonwealth legislation.....	136
Figure 12: insitutional framework of LVETF as a non eac state foundation.....	138

List of Tables

Table 1: LVBC environmental Projects financing.....	72
Table 2 estimation of 2010/2011 Kenyan public expenditure for the environment in the Lake Victoria Basin.....	74

Table 3: Estimation of Tanzanian Public expenditure for the environment in the lake victoria basin	76
Table 4: Estimation of 2010/2011 Ugandan public expenditure on environment in the Lake Victoria Basin.....	77
Table 5: costs of running LVETF nested within an eac insitution.....	156
Table 6: costs of running LVETF as a new insitution within the lvbc.....	161
Table 7: costs of LVETF as public-private partnership	169
Table 8: advantages and disadvantages of proposed legal and insitutional for establishing LVETF	172

ABBREVIATIONS

ADB	African Development Bank
AEFC	African Environmental Funds Committee
AFD	French Development Agency
AMREF	African Medical and Research Foundation
APL	Adaptable Programme Lending
BMCT	Bwindi Mgahinga Conservation Trust
BOD	Board of Directors
BOT	Board of Trustees
CARE	Cooperative for Assistance and Relief Everywhere
CARICOM	Caribbean Community and Common Market
CBO	Community Based Organisation
CCRTIF	Caribbean Catastrophe Risk Insurance Facility
CDM	Clean Development Mechanisms
CEP	Critical Ecosystem Partnership
CER	Certified Emissions Reduction
CFA	Conservation Finance Alliance
CI	Conservation International
CMA	Capital Markets Authority
CTF	Conservation Trust Fund
CTIS	Conservation Trust Fund Investment Survey
DANIDA	Danish International Development Agency

DG	Director General
DGIS	Dutch Directorate General International Cooperation
EAC	East African Community
EACCCF	East African Community Climate Change Fund
EACDF	East African Community Development Fund
EADB	East African Development Bank
EAFC	African Environmental Funds Committee
EALP	EAC/AMREF Lake Victoria Partnership
EAMCEF	Eastern Arc Mountains Conservation Endowment Fund
EC	European Commission
EF	Environmental Fund
EMCA	Environmental Management and Coordination Act
ENRM	Environment and Natural Resources Management
ETF	Environment Trust Fund
FAO	Food and Agriculture Organization
FCPF	Forest Carbon Partnership Facility
FDMP	Fisheries Development and Management Programme
FFEM	French Fund for the global Environment
FINNIDA	Finnish International Development Agency
FLTF	Fisheries Levy Trust Fund
FONERWA	National Fund for the Environment in Rwanda
FY	Financial Year
GEF	Global Environment Facility
GM	Global Mechanism

GOK	Government of Kenya
GSI	Good Stuff International
HIV and AIDs	Human immunodeficiency virus and Acquired immune deficiency syndrome
IDA	International Development Association
IPCC	Inter-Governmental Panel on Climate Change
IW	International Waters (of the GEF)
JICA	Japan International Cooperation Agency
KCB	Kenya Commercial Bank
KES	Kenyan Shilling
KfW (reconstruction)	Kreditanstalt für Wiederaufbau (German Credit facility for reconstruction)
LCSC	Local Community Steering Committee
LIFE+	Financial Instrument for the Environment
LVB	Lake Victoria Basin
LVBC	Lake Victoria Basin Commission
LVDP	Lake Victoria Development Programme
LVEMP	Lake Victoria Environmental Management Programme
LVETF	Lake Victoria Environment Trust Fund
LVFO	Lake Victoria Fisheries Organisation
MCSLV	Maritime Communications for Safety on Lake Victoria
MEA	Millennium Ecosystem Assessment
MES	Market for Ecosystem / Environmental Services
MERECF	Mount Elgon Regional Environmental Conservation Project

MOU	Memorandum of Understanding
MRL	Maximum Residue Levels
NAMAs	Nationally Appropriate Mitigation Actions
NEAP	National Environmental action Plan
NETFUND	National Environment Trust Fund
NGO	Non-governmental organisation
NORAD	Norwegian Agency for Development Cooperation
OS	Operational Strategy
PA	Protected Area
PES	Payment for Ecosystem Services
PWS	Payment for Watershed Services
REDD	Reduce Emissions from Deforestation and Forest Degradation
REDD+	Reduce Emissions from Deforestation and forest Degradation, and foster conservation, sustainable management of forests, and enhancement of forest carbon stocks
ROI	Return on Investment
RPSC	Regional Policy Steering Committee
RSAP	Regional Strategic Action Plan
RTDA	Regional Transboundary Diagnostic Analysis
SC	Steering Committee
SDP	Social Development Programme
SIDA	Swedish International Development Cooperation Agency
SWOT	Strengths, Weaknesses, Opportunities and Threats
TAC	Technical Advisory Committee

TORs	Terms of Reference
TWG	Technical Working Group
TZS	Tanzanian Shilling
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UN-OCHA Affairs	United Nations Office for the Coordination of Humanitarian Affairs
USAID	United States Agency for International Development
USD	United States Dollar
UWA	Uganda Wildlife Authority
VPO	Vice President's Office
WATSAN	Water and Sanitation
WB	World Bank
WFTC	Water Towers Conservation Fund
WWF	World Wildlife Fund for Nature
WWF-MPO Office	World Wildlife Fund for Nature's Macroeconomics Program Office

PREFACE

The Lake Victoria which is the second largest freshwater Lake in the world is a major shared resource of the five EAC Partner States. The Lake Victoria Basin (LVB) is rich in natural resources and social capital including land, water, agriculture, fisheries, livestock, forests, wetlands, mining, energy, wildlife and tourism being the primary productive sectors. However, no sustainable regional funding sources are available to manage these significant National, Regional and global significant natural resources.

Lake Victoria Basin Commission primary funding mechanism is from the EAC Partner States contributions. The Commission also receives donor funding to support its Programs and projects. Partnership fund agreement with Governments of France, Norway and Sweden; World Bank and East African Development Bank was signed in 2003. The Partnership Fund has played a big role in financing Projects and programmes in the LVB including Capacity building of the LVBC. Another kind of Partnerships is through the EAC, LVBC bilateral agreements. EAC/ LVBC have signed Memorandum of Understanding with the Institutions and Governments to support implementation of Protocol for Development of Lake Victoria Basin and its Operational Strategy.

The Protocol for Sustainable Development of Lake Victoria Basin Article 42(i and j) and Article 43 emphasise the need for LVBC Secretariat to mobilise funds and developing a sustainable funding mechanism for facilitating sustainable development in the basin. LVBC Operational Strategy 2007-2010 recognized that the environment and natural resource initiatives within the Lake Basin cannot be sustainably implemented using the current funding mechanism and therefore, proposed to establish sustainable funding mechanisms for the LVBC.

This report is the LVBC first step towards developing a sustainable funding mechanism to manage its environment and natural resources. The report is the result of combined efforts of Lake Victoria Basin Commission Secretariat; Regional Technical Working Group members appointed by EAC Partner States, key informants and experiences gathered by consultants from international, Regional and EAC Partner States on the establishment and management of Environmental Trust Funds.

This report provides three options for establishing the Lake Victoria Environmental Trust Fund (LVETF); three options of Legal and institutional frameworks for establishing LVETF; and Prospective financial resources for the LVETF. The report also recognizes the presence of EAC Development Funds, EAC Climate Change Funds and National Trust Funds. As LVETF will be supporting lake Victoria Basin Transboundary Environment and natural resources management; it is expected this LVETF to be linked to EAC and national Trust Funds, build synergy and compliment them.

The establishment of LVETF can only succeed with the total commitment and determination of all stakeholders. It is LVBC Secretariat most sincere hope and expectation that this report will be a guide and provides direction to all of us who are involved in the process to establish LVETF. The LVBC Secretariat is committed to facilitate the EAC Partner States to use this report to select one option; or combined options and establish LVETF within agreed suitable Legal and institutional frameworks. It is expected that, the LVETF will be established and be operational before the end of LVEMP II.

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DEFINITION OF TERMS

Some words and concepts used in this Report have been used many times and are defined upfront in order to enhance the better understanding of the context in which they are used.

Trust- is an arrangement whereby money or property is owned and managed by one person (or persons, or organisations) for the benefit of another. A trust is created by a settlor, who entrusts some or all of his property to people of his choice (the trustees). In the case of the proposed Lake Victoria Environment Trust Fund (LVETF), the LVBC/EAC would take the role of settlor establishing the Trust.

Settlor-This is a person who creates a Trust by a written document and transfers assets under his control to the legal control of the Trustee.

Beneficiary- A person for whose benefit a Trust has been created.

Trust Deed-This is a written document setting out the powers, duties and obligations of a Trustee under a Trust.

Trustee-An individual or organization, which holds, manages and/or invests assets for the benefit of named persons. The trustees are the legal owners of the trust property, but they are obliged to hold the property for the benefit of one or more individuals or organisations (the beneficiary), usually specified by the settlor. The trustees owe a fiduciary duty to the beneficiaries, who are the "beneficial" owners of the trust property.

EXECUTIVE SUMMARY

The Lake Victoria Basin Commission (LVBC) is a specialized institution of the East African Community (EAC) that is responsible for coordinating the sustainable development agenda of the Lake Victoria Basin. The Lake Victoria is the second largest freshwater Lake in the world and a major shared resource of the five EAC Partner States. The LVBC in its Operational Strategy 2007-2010 proposed the establishment of a LVB Trust fund in recognition that the environment and natural resource initiatives within the Lake Victoria Basin cannot be sustainably managed using the current funding mechanism. In line with the above, LVBC commissioned Good Stuff International Africa to develop the legal and institutional framework for establishing the LVETF and to propose sustainable financing mechanisms. The output of the assignment is the report which is outlining options for establishing the Lake Victoria Environmental Trust Fund.

Environmental Funds

Environmental Trust funds have been around since the early 90s and are set up to provide sustainable financing for nature conservation and the environment. Environmental Funds (EF) can be defined as private, legally independent grant-making mechanisms that provide sustainable financing for biodiversity conservation and/or environmental protection and often finance part of the long-term management costs of a country's protected area (PA) system and/or environmental policy. They can serve as an effective means for mobilizing large amounts of additional funding for biodiversity conservation and environmental protection from international donors, national governments and the private sector. Environmental Funds can be of varying types for varying purposes and comprise Grants Funds, Green Funds, Brown Funds, Parks Funds, Endowment Funds, Sinking Funds, and Revolving Funds. In many instances, Environmental Funds tend to be a mix of different types above.

Reviews of a large number of Environmental Funds by the Global Environmental Facility (GEF) and the Conservation Finance Alliance (CFA) highlight essential conditions that need to be taken into account for an EF to be successful: (a) the issue addressed should be long term; (b) active government support is a prerequisite; (c) support of a critical mass of people from diverse sectors of society that can work together is needed; and, (d) a basic fabric of legal and financial practices and supporting institutions is in place.

On the African continent there are 17 existing trust fund with another 5 in the process of creation and an additional 3 under consideration. This is about a quarter of the total number of trust funds worldwide. The African trust funds are mostly umbrella and hybrid types of endowment, sinking and other types of funds. The opportunities for Environmental Funds in Africa are felt to be good and connected to the emerging market nature in Africa. Threats to the Environmental Funds are the rapid environmental degradation as well as the competing development and environmental protection agendas.

The analysis provides key implications for the LVETF. The LVETF needs clarity of focus and direction; it needs stakeholder involvement; it needs to have clear and well developed relations and linked with EAC and National trust funds; it needs to be as independent as is politically possible while institutionally be linked to the EAC and LVBC; and it needs champions that on a clear stepwise process to establish it.

Justification of a Lake Victoria Environmental Trust Fund (LVETF)

The justification for an environmental trust fund has its primary basis on a number of threats in the lake basin, a number of which have trans-boundary dimensions, but which are generally under-funded. These threats include; land degradation, degradation of wetlands, biodiversity losses, alien-invasive species, water pollution, sedimentation and overfishing. They also have a number of

underlying causes such as poverty, population growth, economic policies and climate change. Bearing these in mind, LVETF is justified on the basis of the following premises:

- a) The funding levels by governments in the region are devoted, more to national, than regional or trans-boundary programmes and actions. The result is a general low priority given to cross-border programmes which require special forms of collaboration. In the absence of a body with a trans-boundary mandate such as the LVBC, the management of shared ecosystems and resources can easily flounder as actions in one country can be negated or compromised by contradicting policies across a border. A trust fund provides a facility for all forms of innovative funding outside in addition to normal government budgets;
- b) Since the LVB was declared an *Economic Growth Zone* by the East African Community it is important to promote economic development alongside environmental management in a way that capitalizes on the strengths of each and does not pit economic development against environmental stewardship. The declaration gives a strong political direction which should be used to showcase a sustainable development approach, which can be used to raise funds both regionally and internationally given the importance of the lake to East Africa and the Nile Basin as well. A fund dedicated to environmental management is quite relevant to the declaration. In addition to the declaration, Protocol for Sustainable Development of LVB and EAC Protocol for Environment and Natural Resources management; and different Committees, provide mandates which are consistent with the proposed fund;
- c) International concerns associated with Multi-Lateral Environmental Agreements and the needs of the entire basin, and the threats of climate change necessitate local, regional and international sourcing of funds;

- d) The LV basin's importance to the management of river Nile water and hence survival of the Nile Basin countries particularly the more arid northern countries of Sudan and Egypt requires long-term management vision that a body such as LVBC can only perform and contributes effectively if it has a variety of innovative financing mechanisms to enable it to sustain critical trans-boundary functions;
- e) LVETF will enrich enable cooperation to manage the basin and has the advantage of improving regional integration through economic and political cooperation and in the process reducing potential for conflicts over water use and other resources such as fisheries and tourism developments is a crucial consideration; and
- f) The long term nature of management of the basin within rapidly changing demographics and associated increasing demands on the aquatic and terrestrial systems necessitates both short, medium and long-term funding horizons and plans require, a regional approach to management

Objectives and scope of the LVETF

The objectives of the LVETF are proposed as:

- a) To provide long term sustainable funding to support priority transboundary environment and natural resources management projects and programmes in the lake basin;
- b) To mitigate the negative transboundary impacts of development on the environment and natural resources;

- c) To ensure a clean and healthy environment in LVB as a prerequisite for “sustainable development”;
- d) To manage water in an integrated and holistic manner linking the protection and conservation of natural ecosystems with social and economic development; and
- e) To conserve the aquatic environment on the Lake Victoria Basin and promote its wise use in perpetuity.

Financing the LVETF

The current finance for the environment in the Lake Victoria Basin comes from two sources mainly, member states and development partners. Analysis shows that the LVBC spends an annual budget of USD 33 Million in the LVB¹. This is focused on hotspots in the basin. It is estimated on the basis of the national public expenditure that the Partner States spend a total of USD 84.5 million annually in the LVB. The majority (75-86%) of these funds are spent on water and especially on water infrastructure. The spending on the environment and natural resources in LVB amounts to an estimated USD 12 million or USD 6 cents per hectare per year.

To estimate the financing gap to sustain the environment and natural resources in LVB was not attainable as information on the real costs to sustain the environment in LVB was hard to get from all Partner States. A comparison between the economic value of natural resources and the current investment in environmental and natural resources activities sheds some light on the financing gap. The annual value of two ecosystems in the LVBC, Mt Elgon and the Mau forest blocks is USD 500 million annually in 570.000 ha and 400.000 ha

1 LVBC project documentation

respectively which is 5% of total surface area of LVB²³. The comparison made to this number with the total annual investments in the LVB (USD 117.5 million) it points out a large gap in financing for the environment.

The flow of the current public funding for the environment of the LVB appears to be relatively in place but not meet the required funding levels. Additional funding for the environment in LVB will need to come out of new sources. The first one is private sector and foundation financing. The experience with the Bwindi Mgahinga Conservation Trust Fund in Uganda, the Eastern Arc Mountains Endowment Fund in Tanzania and NETFUND in Kenya shows that corporate financing can be attractive for Environmental Funds as long as the objectives and scope of the organisation is clear and attractive. A longer term more viable source of financing can be income from ecosystem services markets like Payments for watershed services, global REDD+ financing and finance from levy's, charges and licenses for resource use and pollution. To capitalise on these sources of financing the LVETF requires strong capacities and support in technical and political sense as well as clear demarcation of mandates.

It is proposed that a fund-raising strategy be put in place. This strategy can have three components: firstly, to generate short term financing for the LVETF set up from Partner States and development partners funding and gather the capitalise the operation endowment fund, secondly to use part of this funding to enhance the capacity for generating medium term funding from private sector and foundations, and thirdly, to finance the capacity, policy and institutional needs in the region to generate longer term sustainable finance from global and local ecosystem and environmental service markets, levy and licenses.

2 IUCN – MERECP (2009) *A total economic valuation of the Mt Elgon Ecosystem of Kenya and Uganda*.

3 LVBC (2011) *The Total Economic Valuation of the Maasai Mau, Trans-Mara and the Eastern Mau Blocks of Forests*. Kenya.

Legal and institutional frameworks for the LVETF

Three legal frameworks to establish the LVETF were reviewed. As Rwanda and Burundi do not have trustee legislation in place (yet), a review was executed on trust related legislation in Kenya, Tanzania and Uganda. The findings show that the trustee legislation in the three countries are from the same Commonwealth framework hence differences are very minor and is fully conducive to the LVETF. Next to this, the analysis of EAC Treaty showed that LVETF can be established under the EAC treaty. Finally non-EAC partner state Trustee legislation and foundation legislation were examined both are conducive legal frameworks for establishing the LVETF.

In terms of the different institutional frameworks for the LVETF report elaborates four options: LVETF established as a new EAC institution, LVETF embedded in an existing institution e.g. LVETF as a new window to existing EAC funding institution/ structure (EADB, Climate change Trust Fund or EAC development Fund, LVETF as a trust fund under Commonwealth Trustee legislation and, LVETF as a non EAC state Foundation. Examples of the different institutional set ups are provided and described. A number of additional institutional considerations need to be noted. The involvement of stakeholders in governance and operations needs definition and mechanisms, alignment with LVBC priorities and strategies needs to be secured; and alignment with EAC broad fund raising and financing activities needs to be ensured.

For the LVETF to operate smoothly it requires services from service providers as a Fund or Asset manager, custodian and auditor. Next to this the LVETF will need strong capacities in the fields of good governance, overall leadership, finance and administration, Fund raising, communications and marketing, project management and grant making skills, monitoring and evaluation as well as technical expertise.

Options for establishing the LVETF

The analysis of the findings in the report is consolidated in three options for establishing the LVETF.

Option 1: the LVETF is nested in the LVBC secretariat and subject to the rules, regulation and policies of the LVBC and EAC governance structure. The LVETF would be guided by a Steering committee and be full in line with the environmental priorities as defined by the LVBC. LVETF would be more of a sustainable financing instrument for the environment than a trust fund. In this respect it would resemble the European Commission Life plus programme. The estimated cost of setting up and running LVETF under this option is about USD 400,000.00 per year.

Option 2: the LVETF is established as a new EAC institution under the EAC treaty. The LVETF will be established through a protocol as a new institution under the EAC treaty. The process will be similar as the development of the EAC Development Fund. The LVETF would be governed by a governing council made up of the Ministers of Environment and natural resources of the Member States. The LVETF would be subject to all the rules and regulations of the EAC. Similarly the costs of setting up a new institution within the EAC, is considerably more expensive and could cost up to USD 800,000 per year.

Option 3: the LVETF is a public-private partnership established as a non-profit tax exempt trust fund under the Trustee legislation in one of the member states or if so wished outside the EAC Partner States. The governance of the public private partnership is made up of a board of Trustees with broad stakeholder representation and possibly a government minority. Through its Trust Deed or Articles of Association the LVETF will be bound to a mandate to finance the environmental and natural resources agenda in the Lake Victoria Basin as put

forward in the existing LVBC policies, strategies and action plans. The cost of this model is about USD 600,000 per year but a number of other costs are negotiable and could not be sufficiently reflected in the cost estimations.

Overall it can be concluded that the LVETF as a financing instrument for the environment and natural resources of Lake Victoria Basins has endorsement from the respondents. Respondents are divided about the legal nature of the institution but a majority of them see the LVETF as an institution that is embedded within the EAC framework as part of the LVBC or part of the proposed EACDF. A minority has preference for a governance structure separate from the EAC/LVBC legal frameworks which is option 3. The underlying argumentation is to increase the agility, flexibility and efficiency of the governance and operations of the fund by decreasing government power in the governance as well as provide for stronger non government stakeholder ownership. Information from government led environmental trust funds shows that these characteristics are normally less well reflected in government based funds.

From the viewpoint of financing the LVETF, the main sources of funding will be member states, development partners, private sector and foundations, as well as creating environmental services markets.

In conclusion, ideally the LVETF will be aligned with the EAC treaty, LVB protocol and LVBC policy documents and strategies while at the same time being a strong multi-stakeholder institution.

Recommendations and next steps

After having analysed all information gathered the following recommendations and next steps are proposed:

- a) Take a positive decision on the need of establishing an environmental trust fund as a financial mechanism for the management of environment and natural resources in LVB;

- b) Decide on the proposed legal and institutional nature of the LVETF;
- c) Engage stakeholders on the LVETF;
- d) Create a group of champions as steering committee to the further development of the LVETF;
- e) Fill gaps in the feasibility study and produce a business plan for the LVETF;
- f) Establish a financial target for the LVETF by estimating the management costs of the environmental services for the LVB economy; and
- g) Roll out the action plan to have the LVETF operational in 2014.

General conclusions

- a) The legislative frameworks of a number of Partner States in the Lake Victoria Basin are conducive for the establishment of a Regional Trust Fund namely Lake Victoria Environmental Trust Fund (LVETF);
- b) Those countries that have not developed trust legislations, such as Rwanda and Burundi are not limited or disadvantaged, since will still benefit from such a fund, housed within the LVBC or in one of the other LVBC countries with existing legislation. Being a member and benefitting from such a fund, is in itself a good incentive to generate the necessary political support for their own similar pieces of legislation;
- c) As an innovative financing mechanism, the concept of Payment for Ecosystem Services has great potential to be mainstreamed in East Africa Community Partner States given the natural resources (water, forests, fisheries, aesthetic landscapes). The development of markets for such services could improve given the fast growing urban populations that still

draw a number of benefits from natural systems such as watersheds and national parks;

- d) The development of PES markets is a potentially powerful incentive for improved environmental and natural resources stewardship particularly among rural populations who largely depend on natural resources;
- e) Based on the views expressed by stakeholders and going by the cost estimates associated with each option, it seems that Option 1, which recommends the nesting of LVETF within an existing institution such as the LVBC, appears the most feasible. The second option is also feasible but the cost estimates are significantly higher than the first option;
- f) So far the threats that have been described and the justification further provide do make a compelling case for quick action. As an immediate follow-up, it is important for the concept of LVETF to generate the necessary political legitimacy within the EAC as a stepping stone to its eventual launching;
- g) The LVBC would be well served if it creates or establishes a small but nimble 'donor liaison' and fund raising unit that could support LVETF and other development funds. In essence the LVBC needs to rapidly build its capacity in PES, Trust Funds and Fund Raising in order to manage the iconic basin of which Lake Victoria is the centerpiece; and
- h) LVETF has to be linked to EAC development and Climate Change Funds; and compliment national environmental Trust Funds while addressing transboundary environment and natural resources management agendas.

Chapter 1. INTRODUCTION

Lake Victoria is the second largest freshwater Lake in the world and a major shared resource of the five EAC Partner States. The Lake and its Basin (figure 1) have major significance because it supports a wide diversity of flora and fauna, a vast number of people and is a motor for the economy of the region. The Lake has a surface area of 68,000 km², which is shared by three countries, namely, Kenya (6%), Tanzania (51%) and Uganda (43%). The Lake Victoria Basin catchment area is 193,000 km², which extends into Republics of Burundi, Kenya, Rwanda, Tanzania and Uganda.



FIGURE 1: MAP OF THE LAKE VICTORIA BASIN- SOURCE: CLEAN LAKES INC 2001

The lake is considered as one of the most important shared natural resources by the Partner States of East Africa Community. The Lake is a major source of water and fisheries in the region. The vegetation cover around the lake basin is comprised of savannah and wetlands. Its biodiversity and ecosystem provide a wide range of species of aquatic life, plant and forest cover. The socio-economic importance of Lake Victoria to the Eastern Africa region is associated with the fact that it is: the largest inland water fishing sanctuary; a major inland water transport linkage for the East African countries; a source of water for domestic, industrial and commercial purposes; a major reservoir for hydroelectric power generation; a major climate modulator in the region; and rich in biodiversity.

The Catchment of Lake Victoria has a population of approximately 35 million people as of 2005 who directly exploit these natural resources to sustain their livelihoods. The lake basin is endowed with rich natural resources. Activities such as agriculture and livestock production, hydro-power generation, forestry, fisheries, wildlife and tourism, and mining constitute major sources of income and employment to the population within the basin. These activities are supported by well laid out transport and communication network. The East African Community has recognized the vast potential for economic development that exists within the lake basin and has declared the area a regional economic growth zone. The Basin has an estimated gross domestic product (GDP) of US\$30 billion (LVBC Operational Strategy 2007-2010)

1.1. Environmental Challenges of Lake Victoria Basin (LVB)

According to the LVBC Operational Strategy 2007-2010; as a result of the rich natural resources base of the entire Lake Basin, many stakeholders have been attracted to this region and most of them have diverse interests especially in the Lake itself. The motive of those involved in the Basin is driven by the need to

maximize exploitation of the natural resources in whatever manner but with minimum or no regard for the impact of their activities. The *direct threats* that form the basis of the programme of the LVBC include:

- i. Land degradation – linked to rainfed subsistence agriculture and livestock grazing. These tend to accelerate soil erosion, soil fertility loss and aggravate flooding and water quality. Special cases of land degradation is deforestation (agricultural conversion (sugar, tea, coffee, rice) , livestock, fuelwood, forest exploitations) which in the Lake Basin affects the biggest water source into the lake namely, the Kagera Basin;
- ii. Degradation of wetlands in Uganda, the Kagera Basin, Tanzania and Kenya;
- iii. Pollution from raw sewage from lakeshore settlements, mining – gold panning and industrial effluent from e.g. tanneries, breweries, pulp and paper factories;
- iv. Biodiversity losses – in lakes, wetlands savannas and forests, which includes declines in economically important fish species which for instance declined from 20 to 3 species in a few decades;
- v. Nutrient enrichment of aquatic systems which lead to water hyacinth, algal bloom and its detrimental effects on water quality, availability of oxygen and decline in fish productivity;
- vi. Alien invasive plants – In the basin water hyacinth contributes to eutrophication, increased evapo-transpiration, reduced fishery productivity, clogging of navigation channels, disrupting hydropower generation and spread of waterborne diseases;
- vii. Water quality losses – discharge of untreated waste water, non-point pollution from pesticides and fertilizers, siltation and sedimentation, toxic mining wastes and increases in water-borne diseases (Malaria, Bilharzia (*Schistosomiasis*) all of which are prevalent in the basin; and

- viii. Sedimentation is another phenomenon which has worsened over the years particularly in the Kagera Basin (figure 2).

The above direct threats have a number of *underlying or root causes* which are:

- i. Poverty – which leaves people with few alternatives except the continued dependence on dwindling natural resources;
- ii. Macro and sectoral policies which may be weak on sustainable use of natural resources and sometimes even inadvertently give poverty incentives for loss in forest cover as an example;
- iii. Regulatory environment, institutional issues and land use planning – generally weak;
- iv. Awareness, information and knowledge – involvement of people requires information sharing, learning and jointly developed adaptation strategies, otherwise people may turn to improvident behavior;
- v. Population growth – pressure for more land under cultivation, resource scarcity, pressure on resources, rural – urban migration; and
- vi. Climatic variability –this is associated with disasters such as flooding, pest and disease outbreaks.



FIGURE 2: RIVER KAGERA DRAINING INTO LAKE VICTORIA WITH SILT AND WATER HYACINTH

(Source -LVBC Operational Strategy 2007-2010)

1.2. Management Challenges in LVB

The Lake Victoria Basin Commission (LVBC) is a specialized institution of the East African Community (EAC) that is responsible for coordinating the sustainable development agenda of the Lake Victoria Basin. Towards implementation of its Mandate LVBC is coordinating implementation of Projects and Programs in the basin within the Partner States namely Burundi, Kenya, Rwanda, Tanzania, and Uganda.

The major management challenge of LVBC Secretariat is to implement fourteen areas of cooperation to the conservation and sustainable utilization of the resources of the basin as provided for by Protocol for Sustainable Development of LVB, Article 3. The experiences of LVBC secretariat in implementing projects and programme related to environment and natural resources management, shows

that, the LVBC Secretariat cannot implement its mandate due to the limited funding.

The Lake Victoria Basin Commission primary funding mechanism is from the EAC Partner States contributions and development partners. The funding from the development partners is mainly project based. The Commission also receives funding under the Partnership Agreement that entered into force in 2001 between the EAC and the Governments of France, Norway and Sweden; and World Bank and East African Development Bank to support sustainable development in the Lake Victoria Basin.

1.3. Proposed solution on limited funding

The LVBC in its Operational Strategy 2007-2010 proposed the establishment of a LVB Trust fund in recognition that the environment and natural resource initiatives within the Lake Victoria Basin cannot be sustainably managed using the current funding mechanism. In line with the above, LVBC commissioned Good Stuff International Africa to develop the legal and institutional framework for establishing the LVETF and to propose sustainable financing mechanisms.

1.4. Technical Methodology and approach

LVBC commissioned Good Stuff International Africa consultant to propose options for establishing Lake Victoria Environmental Trust Fund and legal and institutional framework for establishing the LVETF.

To guide the consultant, LVBC Secretariat established regional Technical Working group with members appointed by EAC Partner states.

The required information was collected by consultants through literature review, key informants at regional and EAC Partner States. The collected information informed the preparation of this report.

The following are different regional meetings held to guide and adopt this report:

- i. inception report was presented and approved by regional technical working group meeting held on the 6th may 2011;
- ii. National meetings of Partner States were organized at different dates at Countries with the assistance of the national LVEMP II offices and National Focal Points Officers to collect information and build consensus;
- iii. draft report was presented to the second regional technical working group meeting held on 5th September 2011 in Entebbe Uganda for technical guidance and inputs;
- iv. Final draft was presented to the third regional technical working group meeting held in Gisamabi Kenya on 6th and 7th February 2012;
- v. Final draft report was presented to Stakeholders workshops held in Kampala Uganda and Kigali in March 2012 for inputs and consensus building among EAC/LVB Partner States and own the report;
- vi. Final draft report was presented to LVEMP II Regional Project Steering Committee on 19th March 2012. The meeting adopted the report subject to the incorporation of the RPSC inputs; and
- vii. The RPSC inputs were incorporated and final report produced to be considered by LVBC Council of Ministers.

Chapter 2. ENVIRONMENTAL FUNDS, AN OVERVIEW AND DESCRIPTION OF CASE STUDIES

This chapter give an overview on the essential features of environmental funds, preceded by their historical origins a few relevant definitions.

2.1 ENVIRONMENTAL AND CONSERVATION TRUST FUNDS:

Since the early 1990s, environmental funds have come into being primarily to complement public financing for biodiversity conservation and environmental management. Many of the funds have their roots with the Global Environment Facility (GEF) that has provided finance to a substantial amount of Conservation Trust Funds in the early days. In 1998, the GEF published the results of an evaluation of 13 conservation trust funds to distill lessons learned and make recommendations to the GEF regarding future assistance to CTFs⁴. In May 2008, the Conservation Finance Alliance (CFA) published a rapid review of conservation trust funds⁵ building on the GEF study. The two reviews provide foundational information for this chapter. Next to this the chapter borrows from the minutes of the African Environmental Funds Committee (EAFC) that met in September 2010 in Dakar⁶. Lastly, the chapter draws on the annual Conservation Trust Fund Investment Survey published in 2009 to understand the returns of Environmental Funds⁷. As an introduction to environmental and conservation trust funds, this

4 Evaluation of experience with Conservation Trust Funds, 1998, Monitoring and Evaluation team. GEF secretariat.

5 Conservation Finance Alliance (CFA). 2008. Rapid Review of Conservation Trust Funds. Prepared for the CFA Working Group on Environmental Funds by Barry Spergel and Philippe Taïeb.

6 Joining Forces: The Dakar Meeting of African Environmental Funds Organized by the CFA African Environmental Funds Committee September 2010 , EAFC, <http://conservationfinance.org/wg.php?pg=4>

7 Conservation Trust Fund Investment Survey, Marja J. Preston and Ray Victorine, in collaboration with the Conservation Finance Alliance, September 2010.

chapter provides an overview of the findings in the reports complemented with information from specific trust funds in the African region.

2.2 PERFORMANCE OF ENVIRONMENTAL TRUST FUNDS

The *viability of Environmental Funds in the African* region is a topic worthy of discussion herein. So far, a general account of such funds in Africa suggests that some have yielded impact on the ground and have managed to resist external shocks, At the moment one of the largest environmental trust fund is in the biodiversity rich island of Madagascar, which was created as a long-term financing mechanism for its Protected Area System but its further funding has been slowed by political unrest. In general however, their performance on investment is quite good. However, the funds generally experience funding gaps and suffer from a lack of human resources skills and knowledge as well as technical and data capacities. The opportunities for trust funds are great and very much connected to the emerging market economy nature of African economies. Also the continued development of global environmental services markets for carbon (certified emission reductions or CERs) and REDD+ provide real opportunities, in which Africa's contributions are expected to grow. The development of local environmental services markets through payments for ecosystem services could provide revenues in the longer term. Support for networking and training on various components of ETF operation is available through the CFA EAFC network. The continuing and rapid environmental degradation as well as competing agendas for environmental protection and development are threats to the successful operations and instigation of EFs. This shows that an EF will never be a silver bullet to solve all issues associated with financing environmental management. Instead, EFs should be seen as mechanisms that can complement other interventions for environmental management and protection through national and regional policy.

2.3 TYPES OF ENVIRONMENTAL TRUST FUNDS

From the review of available literature it is clear that Conservation Trust Funds (CTF) and Environmental Trust Fund (ETF) can be classified as similar institutions and can be defined similarly. Therefore, this report adopts the definition for the more generic term Environmental Fund that is employed by the rapid review of the CFA. Environmental Funds (EF) can be defined as private, legally independent grant-making mechanisms that provide sustainable financing for biodiversity conservation and/or environmental protection and often finance part of the long-term management costs of a country's protected area (PA) system and/or environmental policy. They can serve as an effective means for mobilizing large amounts of additional funding for biodiversity conservation and environmental protection from international donors, national governments and the private sector. In

Both the GEF and the CFA review state that it is very difficult to define a "typical" EF. The structure of the fund, scope of activities, priorities, and procedures vary according to the purposes set and the situation of the region they serve. One thing that all EFs do have in common is that they perform a variety of functions. Where initially it was expected that EFs would only serve as financing mechanisms for the environment, both studies show that the roles of the EFs are much wider and incorporate: (a) supporting protected areas, including enabling the creation of new national parks, expansion of existing areas, and providing a basic "resource security" for their operations; (b) generating and managing financial resources; (c) enabling the participation of civil society institutions in resource conservation; (d) increasing the level of scientific research applied to conservation issues and the environment; and (e) increasing public awareness of conservation issues and the environment

The GEF evaluation states a number of different Environmental Funds that CFA review has expanded on. The CFA review identified the following different types of

Environmental. It should be noted that many of the funds are hybrids of the different categories below.

The following types of funds were encountered:

- a) **Grants Fund** - Channels resources to target groups (typically NGOs and CBOs) for a broad range of conservation and sustainable development projects, not limited to PAs.
- b) **Green Fund** - Primarily finances activities related to biodiversity conservation.
- c) **Brown Fund** - Finances activities such as pollution control and waste treatment. Many brown funds allocate five to ten percent of their grants for biodiversity conservation and PAs. Most brown funds are financed by pollution charges or fines.
- d) **Parks Fund** - Finances the management costs (and sometimes also the establishment costs) of specific PAs, or of a country's entire PA system. PA management costs can also include financing for alternative livelihoods or sustainable development activities in PA buffer zone communities.
- e) **Endowment Fund** - Capital is invested in perpetuity, and only the resulting investment income is used to finance grants and activities.
- f) **Sinking Fund** - The entire principal and investment income is disbursed over a fairly long period (typically ten to 20 years) until it is completely spent and thus sinks to zero.
- g) **Revolving Fund** - Income from taxes, fees, fines, or Payments for Ecosystem Services (PES), that are specially earmarked, regularly go into the fund to be used for specified purposes.

2.4 KEY LESSONS LEARNED WITH ENVIRONMENTAL FUNDS

The GEF Evaluation concluded that EFs require satisfying four “essential conditions” in order to be successful. The 2008 rapid review study by the Conservation Finance Alliance shows the following essential conditions remain valid today:

- a) The issue to be addressed requires a commitment of at least ten to 15 years;
- b) There is active government support for a public-private sector mechanism outside direct government control;
- c) There is a critical mass of people from diverse sectors of society that can work together to achieve biodiversity conservation / environmental protection and sustainable development; and
- d) There is a basic fabric of legal and financial practices and supporting institutions (including banking, auditing and contracting) in which people have confidence.

The CFA review, quotes executive directors of Environmental funds that state that Funds are more efficient, flexible, effective and transparent institutional mechanisms for delivering financial and technical assistance than many of the government line agencies because Environmental Funds tend to be less politicized or constrained by civil service procurement and employment rules.

2.5 LEGAL FRAMEWORK AND AGREEMENTS

The Environmental Fund Toolkit provides a living resource of knowledge and information in terms of best practice guidance and examples for establishing and operating environmental funds⁸.

Following are brief overview of the various topics that the toolkit presents when discussing legal and governance matters of EFs:

- a) EFs are generally established as legally independent entities like a trust or a foundation governed by a Board of Directors or Board of Trustees through Articles of Incorporation or Charters approved by government authorities. The legal framework varies by country, but to be effective, Trust Funds must receive tax exemptions so that invested funds can grow and can all be expended on conservation and environmental activities. Trust funds sometimes are registered in other countries for mostly financial and also political purposes; and
- b) The basic legal framework of an EF consists of charters and articles of incorporation or the trust deed under the legal framework of the country of registration. The founders of the EF draft bylaws under the legal framework. These bylaws set the structure and define the unique individual operating procedures of the organisation for example: how Board members will be selected, how decisions will be made, and how officers will be named. In order to align and coordinate operations with governments EFs establish separate agreements like MOUs with the relevant national governments. The toolkit notes that “strong ties and clear roles between the government and an Environmental Fund with the political will is easy to find solutions to difficult problems or mistakes along the way (essential for long-term success).” Similarly, the trust fund can establish coordination mechanisms

⁸ <http://toolkit.conservationfinance.org/>

with key players and service providers as international NGOs to support the establishment and smooth operation of the trust fund.

2.6 GOVERNANCE

The reports note that a critical factor for good governance is for an EF to have a board of directors that balances all the stakeholder groups from society. Generally government has a minority of seats on the board. For example the Bwindi Mgahinga Conservation Trust (BMCT) in Uganda has a Trust management board made up of ten trustees. These comprise the Executive Director as Chair, a private sector representative, three local community representatives, one development NGO representative, one conservation NGO representative, three representatives of government (Ministry of Finance, Ministry of Justice, Ministry of Tourism)⁹It is reported that having a non-governmental majority on the board helps to attract donations from the private sector and from international donors. The involvement of stakeholders in the decision making of the LVETF was stressed as crucial in various interviews conducted with stakeholders on the LVETF¹⁰.

Non-governmental board members should be chosen based on their personal competencies rather than as official representatives of a particular constituency. Their terms should be staggered (rather than all ending at the same time) to provide greater institutional continuity. A large board (with 15 or more members) may be able to draw on more technical expertise and geographical background from its members, but a large board can also make it harder to reach decisions, and raise administrative costs. One option used by many EFs is to have a smaller executive committee that meets more frequently and handles many short-term

9 <http://www.bwinditrust.ug/management.htm>

10 See annex 3 for the list of respondents

and urgent decisions, while the full board focuses on larger and more strategic decisions, as well as approving the annual budget, work plan and grants program.

Also, EF boards often function more efficiently if they delegate certain topics to committees that make recommendations to the full board. Common examples include finance and investment committee, and a scientific and technical committee. These committees can also co-opt non-board members to assist them. The earlier mentioned Bwindi Mgahinga Conservation Trust has installed two committees. Firstly, the Local Community Steering Committee which is responsible for community development projects and concerns of the communities they represent. Its membership includes elected community members, NGOs doing conservation work in the region as well as representatives of local governments. Three elected members serve on the Board. Secondly, the Technical Advisory Committee which advises the board on technical issues including research matters. Members are eminent persons in their fields of interest to BMCT.

Board members' responsibilities should be clearly specified in a EF's bylaws or its operations manual, and they should be given short (one or two- day) training and orientation when they join the board. The toolkit further adds that all Funds must have effective governance structures with strong Boards of Directors, clear conflict of interest policies, and the ability to attract and effectively channel the energy and experience of strong Board members.

2.7 FINANCING AND RETURN ON INVESTMENT

The Conservation Trust Fund Investment Survey 2009 (CTIS) published in September 2010 holds information on the financing of 39 Trust Funds globally that managed a total of 519 million USD in 2009. CTIS reports a multitude of sources of financing comprising financing from debt swaps, multilateral donor agency grants as well as grants from government, foundations, non-governmental

organisations, individuals and revenue creating activities. Private sector funding is not mentioned in the report. For the year 2009 the average returns on investment (ROI) was 14.4% which is good recovery from the 7% losses that were reported in 2009. Endowment funds generally performed better with 14.8% average then sinking funds with 13.3% average.

For new funds, the CTIS study asked the participating funds about the advice they would give to funds that would be newly established. This led to the following list of recommendations:

- a) Establish an investment policy with well-defined objectives of investment;
- b) Create a solid investment committee;
- c) Select a qualified investment consultant or asset manager to manage the investments with limited discretionary ability;
- d) Invest in low to moderate risk, secure investments; and
- e) Create a spending policy.

On top of these, the funds also pointed to the necessity of sharing experiences and knowledge with each other about investment. For Africa a network has already been established that is named African Environmental Funds Committee (EAFC) and is managed by the Conservation Finance Alliance¹¹.

2.8 EVOLVING OF ETFs

When established and functional, EFs can use their expertise as grant making mechanisms and financial intermediaries to serve as efficient and effective mechanisms for channeling long-term subsidies, financial incentives and

¹¹ More information can be found at: <http://www.conservationfinance.org/wg.php?pg=4>

compensation to rural communities for shifting away from ecologically unsustainable practices to more sustainable forms of natural resource use.

Next to this it has been suggested that ETFs can fulfill future roles as intermediaries in Payments for Ecosystem Services (PES) transactions, which can thereby also serve to reduce transactions costs. Roles could comprise: PES fund administrator, trustee for the PES scheme, bundle Ecosystem services and buyers to achieve economies of scale, strengthen institutions engaged in PES, Monitor and evaluate and enforce compliance, broker negotiations, support government decentralisation, assist in valuation of services, lobby governments for simplified PES policy frameworks.

2.9 AFRICAN ENVIRONMENTAL TRUST FUNDS; SUCCESS AND FAILURE

This section draws on the outcomes of the September 2010 African Environmental Funds Committee (EAFC) meeting in Dakar¹² as well as additional information from interviews, experiences and documents obtained from African environmental trust fund websites and contacts with representatives of trust funds. The section describes the characteristics and lessons of specifically environmental trust funds in Africa.

2.9.1. SUCCESS AND FAILURE

a) Success

On the African continent there are 17 existing trust fund with another 5 in the process of creation and an additional 3 under consideration. These 17 present about a quarter of the total number of trust funds worldwide. The African EFs have mobilised slightly over a tenth of the total resources that trust funds have

12 Joining Forces: The Dakar Meeting of African Environmental Funds Organized by the CFA African Environmental Funds Committee September 2010 , EAFC, <http://conservationfinance.org/wg.php?pg=4>

mobilised globally. The African trust funds are mostly umbrella and hybrids funds and manage endowment, sinking and other types of funds. While they are facing a number of challenges, the fund mechanism is proving to be an effective and resilient contributor to national and global conservation achievements. The trust funds raise additional funding, ensure transparent and flexible ways of delivering financing and rationalize the management of natural resources.

As part of the EAFC meeting, an overall SWOT analysis was executed, this SWOT analysis is reprinted as figure 3 below and there was a general agreement that there is great potential for funds dedicated to nature and the environment and in a number of cases the impact of trust funds have been demonstrated particularly the ones that have been created to protect endangered species such as black rhino and gorillas.

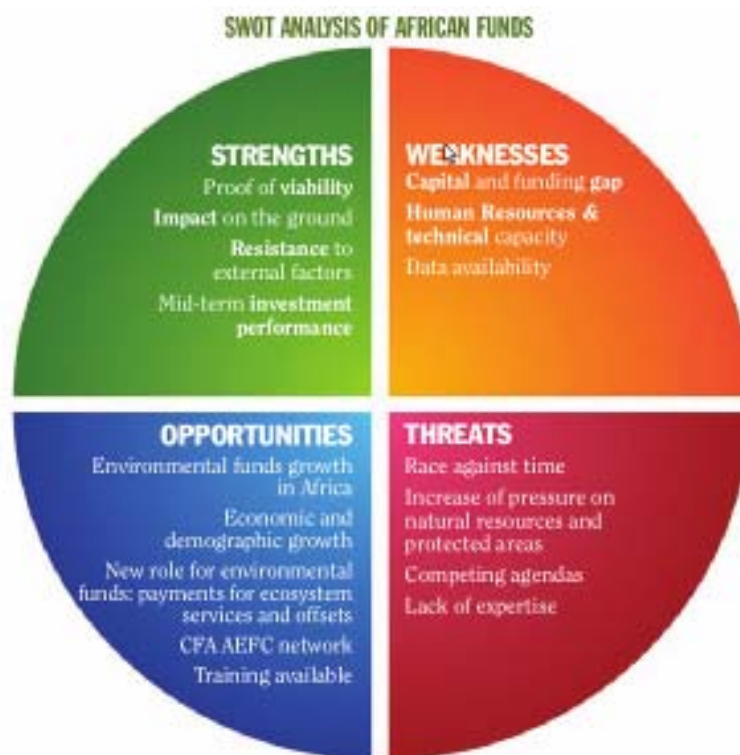


FIGURE 3: SWOT ANALYSIS OF AFRICAN ENVIRONMENTAL TRUST FUNDS

Source: Conservation Finance Alliance

b) Failure

One of the constraints noted is on the sinking funds which performed slightly less well than endowment funds.

2.9.2. FINANCE

On average the African ETFs are managing a budget of about 10 million USD. The 2009 Conservation Trust Fund Investment Survey (CTIS)¹³ concluded that funds with assets of less than \$10 million equivalent have had the strongest returns; funds across Africa average \$10 million, which could mean that they were the best performers. The largest fund on the African continent manages assets of 21.4 million USD and the smallest 2.5 million USD. Eleven African EFs participated in the last CTIS survey. The return on investment for endowment funds in Africa was higher than the global average at 17.1% up from -10.7% in 2008. The three year and five year average returns for African funds are 5.8 and 7.8% respectively.

2.9.3. GOVERNANCE AND MANAGEMENT

Governance structures commonly seen in African ETFs are a General Assembly or General Meeting that constitutes mostly of Members that are the original founders of the trust fund (Figure 4). The General Assembly or Meeting installs the Board of Trustees and takes decisions on ordinary or special resolutions. The latter refer to major structural changes like the Board composition or changes to the articles or statutes. The board is comprised of Directors that are responsible for the running of the fund. Their powers are determined by the governing laws and the statutes of the Trust Fund. A board size of 9 Directors is most common in African ETFs. Board decisions cannot be overruled by the General Assembly. The board

13 Conservation Trust Fund Investment Survey, Marja J. Preston and Ray Victorine, in collaboration with the Conservation Finance Alliance, September 2010.

delegates management authority to the management of the ETF for the implementation of its decisions and day-to-day operation of the entity.

Several types of governance structures are illustrated in Figures 9 to 12 in Chapter 5 of this report.

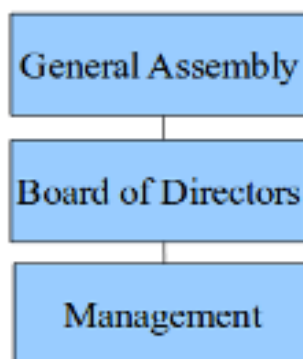


FIGURE 4: BASIC GOVERNANCE STRUCTURE OF AN ENVIRONMENTAL FUND

Representatives of the African Trust Funds in the AETC meeting see the following important factors in building a capable Board:

- a) selecting Directors who represent diverse stakeholders and sectors (government, legal, financial, commercial, conservation, academic, communities) to provide the key expertise and experience for understanding the fund’s “trade and business” and supporting the needs of the institution;
- b) making use of committees to expand the expertise not found among directors, broaden the knowledge of directors and make the work of the Board more efficient; and
- c) ensuring directors receiving the general or topic-specific training necessary to feel at ease when carrying out their duties and exercising their powers.

2.9.4. ACCOUNTABILITY

The African Trust funds in the AEFC meeting specify an accountable institution as one that reports, explains and can be held answerable for the consequences of its actions, decisions and policies. The management of the Trust fund is accountable to the Board, and the Board is accountable to the stakeholders. It is clear that with having an accountable and representative governance, the governance structures need to include stakeholders. Thus as a best practice, stakeholders are consulted for the funds mission, objectives and activities. In dealing with stakeholders, funds should:

- a) keep them informed;
- b) communicate with a simple and consistent messages;
- c) put good controls in place and use them; and
- d) assess the efficiency and effectiveness of its operations periodically and make the results public.

Regular and good quality reporting on the progress and results of the Trust Fund from the management to the board and from the board to the stakeholders is requisite to driving the accountability of a trust fund. Producing Annual Reports is seen as a good mechanism to report efficiently and effectively to outside audience including donors and the general public about accomplishments. Websites and other modern communication technology such as social networks are seen as very efficient tools in communicating with the outside world.

2.10 NATIONAL ENVIRONMENTAL TRUST FUNDS IN EASTERN AFRICA

Within the Eastern African Region there are National Environmental Trust funds that have either been in operation for some time, have been more recently established or are under design. Below are descriptions of four of these from Kenya, Rwanda, Tanzania and Uganda to provide background information on the National Environmental Trust Funds in Eastern Africa, their governance and administration and financing and investment mechanisms.

2.10.1. THE BWINDI MGAHINGA CONSERVATION TRUST (BMCT) IN UGANDA

The Bwindi Mgahinga Conservation Trust (BMCT) in Uganda was set up as an endowment fund in 1994. Key actors at the start up of the fund were the government of Uganda, the World Bank.

a) Governance and administration

The BMCT has a Trust Management Board comprising of ten Directors among which eight trustees. The board is comprised as follows¹⁴:

- i. Trustee, Chair, Executive Director UWA;
- ii. Trustee, Hotelier, Tourism Consultant;
- iii. Trustee, Local Community representative;

14 [Www.bwinditrust.org](http://www.bwinditrust.org)

- iv. Trustee, Local Community representative;
- v. Trustee, Local Community representative;
- vi. Trustee, CARE International;
- vii. Trustee, Nature Uganda;
- viii. Trustee, Ministry of Tourism;
- ix. Member Ministry of Finance; and
- x. Member, Ministry of Justice.

The Board has two committees to assist in its work:

- i. The Local Community Steering Committee is responsible for community development projects and concerns of the communities they represent. Its membership includes elected community members, NGOs doing conservation work in the region as well as representatives of local governments. Three elected members serve on the Board; and
- ii. The Technical Advisory Committee advises on technical issues including research matters. Members are eminent persons in their fields of interest to BMCT.

Below the Trust Management Board the BMCT has a Trust Administration Unit that administers the Trust under the management of the Trust administrator.

b) Financing and investment

GEF provided US \$ 4 million to start the Fund. To allow the Fund to grow and generate its own funds USAID contributed establishment funds (about US \$ 800,000) for the first two years (1995-1997). Then the Royal Kingdom of the

Netherlands funded the Trust for the next five years with about US \$ 3 million. Meanwhile the Fund grew to over US \$ 7.3.million.

The main donors to BMCT are USAID, United Kingdom of the Netherlands, FAO, D. Swarovski KG, CARE International, African Orphan Foundation, Transboundary Executive Secretariat. The main reason that they are funding today has been the performance capability based on a prudent management Board and transparent and accountable management with clear policies. The fund raising strategy is still under development and also has a focus on private sector. Currently there is one private sector funder, D. Swarovski.

The respondents noted a couple of key success factors in establishing and operationalising an Environmental Trust fund¹⁵. These were:

- i. No political interference but full political support;
- ii. Bottom up planning approach;
- iii. Inclusion of key private partners that affect and affected by the LV;
- iv. Practical projects that will bring out the desired changes; and
- v. Reduce red tape but ensure transparency and result full accountability.

c) Success

A key success factor in creating the BMCT was “the contribution of GEF/ WB and the ready acceptance to set up an independent Trust by the Government of Uganda greatly enhanced the establishment of the Trust Fund”¹⁶.

15 Respondents interview with former administrator of BMCT

16 Respondents interview with former administrator of BMCT

d) Failure

Financially the Trust funds grew from 4 million to over US \$ 7.3 million before it suffered from the World Market collapse of 2001. The suffering was due to international Donors financial crises caused by World Market collapse and shift of funding priorities.

2.10.2. THE EASTERN ARC MOUNTAINS CONSERVATION ENDOWMENT FUND¹⁷

The Eastern Arc Mountains Conservation Endowment Fund (EAMCEF) is a Trust Fund that was established as a mechanism to provide for long term, reliable and sustainable funding support to biodiversity conservation in the Eastern Arc Mountains of Tanzania.

EAMCEF was officially registered in Tanzania on 6th June 2001, under the Trustees' Incorporation Ordinance No. 375 of 1956. It was set up as a joint initiative of the Government of the United Republic of Tanzania, the World Bank and the Global Environment Facility (GEF). The Trust Fund operates as a Not-for-Profit Non-Governmental Organization (NGO).

a) Governance and administration

The EAMCEF is governed by a Board of Trustees of nine trustees from various stakeholders, two government representatives, one international conservation NGO representative, one national NGO representative, one legal representative, one business representative, two local community representatives, one academic representative, and the EAMCEF executive Director as secretary to the board.

The EAMCEF is managed on a day to day basis by an EAMCEF Secretariat. The staff are based in Morogoro and headed by an Executive Director.

¹⁷ <http://www.easternarc.or.tz/>

b) Financing and investment

The EAMCEF investment is the initial capital with a reputable Asset Manager. This was USD 7.0 million invested in December 2006 from the Critical Ecosystem Partnership Fund. The EAMCEF focuses on various donors and stakeholders in its fund raising. The fund raising strategy developed by EAMCEF to involve private sectors provided new sources of funds. The strategy has two components (a) support the Endowment Fund, (b) support to Nature reserve programmes.

c) Success

The fund raising strategy developed by EAMCEF after decrease in the initial investment from 7 million to USD 6.5 million has created awareness and willingness of private sectors like Unilever PLC to start a discussion in 2008 to place a capital sum of Euro 250.000.

d) Failure

The first funding approach of involving Donors and key stakeholders initially generated good returns, but later led to a decrease in the initial investment to USD 6.5 million and hence necessitate changing funding strategies.

2.10.3. THE NATIONAL ENVIRONMENT TRUST FUND - KENYA¹⁸

The Government of Kenya developed a National Environment Action Plan (NEAP) in 1994 in response to Agenda 21 of the Rio Conference of 1992 that led to the enactment of the Environmental Management and Coordination Act (EMCA 1999). The EMCA created various institutions for the general management of the environment in Kenya. One of these institutions is the National Environmental Trust Fund (NETFUND).

¹⁸ <http://www.netfund.go.ke/>

NETFUND's vision is to ensure that sufficient resources are always available to maintain a clean, healthy, and productive environment.

NETFUND's mandate is to secure resources from any legitimate source such as the Government, donation, endowments, grants and gifts, management fees, and any other monies payable to the Fund.

a) Governance and administration

NETFUND is governed by a Board of Trustees (BoT) appointed by the Minister of Environment and Mineral Resources. The BoT is the main decision-making organ charged with, amongst other things, policy formulation, provision of advisory services, control of NETFUND funds and assets and undertaking other activities in line with the mission and vision of NETFUND. The trustees are selected on the basis of demonstrated integrity, dedication and competence in a variety of fields as outlined in EMCA.

b) Financing and investment

The main donors of NETFUND are UNEP, UNDP, UN-OCHA, WWF, Global Mechanism, GEF, DANIDA, JICA and Sida. Reasons funding are the thematic areas of NETFUND are well within their funding policies; the donors seem to like little involvement with the government and thus working with NETFUND. NETFUND has lean professional staff, little bureaucracy, and little costs of administration. Recently, through a partner forum, NETFUND has started to access private sector funding. NETFUND has a corporate resource mobilisation strategy as well as a partner engagement plan in place.

c) Success

The success of NETFUND was due to the fact that the establishment was championed by UNEP, WWF, IUCN and UNDP and this led to a lot of publicity of the organisation with other stakeholders. The main reason for these organisations championing NETFUND was because they understood the mission and got interested in NETFUND's programmes.

The Chief Executive Officer highlighted the following key success factors for establishing and operationalising an Environmental Trust fund like the NETFUND and LVETF:

- i. Proper legal framework;
- ii. Autonomy;
- iii. Clear link to the governments, private sector and the BOT; and
- iv. Commitment from member states to provide some funding.

d) Failure

The interview with the Chief Executive Officer of NETFUND¹⁹ highlighted key factors determining the failure of NETFUND. Being enacted at the same time as other environmental institutions led to competitive behavior which was not conducive to the start up of the fund. Next to this an important hurdle was the legal framework questioning the authority and power of trustees. The reason this happened was because NETFUND was not independent enough from the existing government legal framework.

2.10.4. NATIONAL FUND FOR ENVIRONMENT (FONERWA) IN RWANDA²⁰

The Government of Rwanda has established the National Fund for Environment abbreviated as FONERWA in French. The formation of the fund was provided for under Organic Law No 04/2005 determining the modalities of protection, conservation and promotion of environment in Rwanda.

The fund operational modalities are currently under design and discussion. The Fund's focal areas as enacted by the Organic Law are:

- a) Soliciting and managing funds;

¹⁹ Interview with respondents Chief Executive Officer of NETFUND

²⁰ Rwanda Environment Management Authority, (2010) Operationalisation of National Fund for the Environment (FONERWA) in Rwanda, August 2010.

- b) Controlling soil erosion and drought;
- c) Afforestation and reforestation;
- d) Using renewable energy;
- e) Using cook-stoves;
- f) Investing in campaigns or carrying out activities intended to fight against causes of pollution;
- g) Support installations to comply with natural standards;
- h) Industries that import equipment used to eliminate or reduce gases like Carbon dioxide and chlorofluorocarbons;
- i) Industries which manufacture equipment that reduces pollution in the environment;
- j) Activities by moral persons and individuals that undertake activities that promote environment;
- k) Support training, research and communication aimed at environmental conservation; and
- l) Activities that repair or rehabilitate areas that have been environmentally damaged or degraded when the culprit is unknown or has no means to repair or rehabilitate them.

Concepts for the operationalisation have been described in a document commissioned by the Rwanda Environment Management Authority and are currently under debate.

2.11 REGIONAL TRUST FUNDS AND FINANCING INSTRUMENTS

The LVETF will be regional in nature because of its geographic focus on Lake Victoria Basin comprises five EAC partner state territories. It will thus be a regional financing instrument for the environment. To understand how an environmental trust fund can operate at the regional, the references were made to two regionally focused initiatives:

- a) the Caribbean Catastrophe Risk Insurance Facility (CCRTIF); and
- b) the LIFE+ programme the European Commission financing instrument for the environment

Below is a description of the characteristics of these two regional initiatives in terms of their purpose, legal framework and governance, financing and stakeholder engagement.

2.11.1. CARIBBEAN CATASTROPHE RISK INSURANCE FACILITY - CCRIF²¹

a) General description

CCRIF is the first multi-country risk pool in the world, and is also the first insurance instrument to successfully develop parametric policies backed by both traditional and capital markets. It is a regional catastrophe fund for Caribbean governments, designed to limit the financial impact of devastating hurricanes and earthquakes by quickly providing financial liquidity when a policy is triggered. CCRIF operates as a public- private partnership, and is set up as a non-profit 'mutual' insurance entity in the Cayman Islands. The CCRIF idea was prompted

²¹ A guide to understanding CCRIF, CCRIF, March 2010, extracted from www.ccrif.org

by Hurricane Ivan in 2004, which caused billions of dollars of losses across the Caribbean.

CCRIF has, in its first three years of operation, offered separate hurricane (wind) and earthquake policies. Caribbean governments may purchase coverage which triggers for a 'one-in-15-year' hurricane and a 'one-in-20- year' earthquake, with maximum coverage of US\$100M available for each peril. The cost of coverage is a direct function of the amount of risk being transferred, ensuring no cross-subsidization of premiums and a level playing-field for all participants.

b) Purpose:

CCRIF was developed to help mitigate the short-term cash flow problems small developing economies suffer after major natural disasters.

c) Legal set up and governance:

The CCRIF is a special purpose trust designed by the World Bank. The trust is governed by a Trust Deed setting out the purposes of CCRIF. The Trust has a board of directors that consists of five persons and has representation of the participating governments, the donor countries, two technical persons and an executive chair person²².

d) Financing:

CCRIF functions similarly to a mutual insurance company which is controlled by its participating governments. It was initially capitalized by the participating countries themselves, with support from donor partners.

22 See also: <http://www.pacificdisaster.net/pdnadmin/data/documents/2307.html> extracted 14 November 2011

e) Success

The CCRIF managed to bring sixteen countries together and agreed to combine their emergency reserve funds into a common pool. These sixteen Governments are currently members of the Facility: Anguilla, Antigua & Barbuda , Bahamas, Barbados , Belize , Bermuda , Cayman Islands , Dominica , Grenada , Haiti , Jamaica , St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Trinidad & Tobago , Turks & Caicos Islands . CCRIF is open to governments only and specifically to CARICOM²³ members.

f) Failure

The CCRIF has no mechanism for stakeholder participation.

2.11.2. LIFE+ THE FINANCIAL INSTRUMENT FOR THE ENVIRONMENT 24

The LIFE programme is the EU's funding instrument for the environment. LIFE began in 1992 and to date there have been three complete phases. The current phase of the programme, LIFE+, runs from 2007-2013 and has a budget of €2.143 billion. The legal basis for LIFE+ is the Regulation (EC) No 614/2007. LIFE+ covers both the operational expenditure of DG Environment and the co-financing of projects. According to Article 6 of the LIFE+ Regulation, at least 78 percent of the LIFE+ budgetary resources must be used for project action grants (i.e. LIFE+ projects).

During the period 2007-2013, the European Commission will launch one call for LIFE+ project proposals per year. Proposals must be eligible under one of the programme's three components: LIFE+ Nature and Biodiversity, LIFE+

23 Carribean Community

24 REGULATION (EC) No 614/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 May 2007 concerning the Financial Instrument for the Environment (LIFE+)

Environment Policy and Governance, and LIFE+ Information and Communication.

25

a) Purpose:

The general objective of LIFE is to contribute to the implementation, updating and development of EU environmental policy and legislation by co-financing pilot or demonstration projects with European added value.

b) Legal framework and governance:

LIFE + legally founded and established by Regulation (EC) No 614/2007 by the EU Council of ministers and the European Parliament. The European Commission (EC) through its Directorate General Environment (DG ENV) is charged with the implementation of the regulation inter alia, the financing instrument for the environment. The EC/DG ENV is assisted by a LIFE + committee that is comprised of member state representatives. The committee takes implementing decisions to assist the Commission according to Article 13 of the LIFE+ Regulation.

c) Financing:

Regulation (EC) No 614/2007 sets the budget for Life + from 1 January 2007 – 31 December 2013 at EUR 2 143 409 000. This budget is made up of member state contributions as part of the overall EC budget.

d) Non-government stakeholder engagement:

Although in the implementation of the regulation there is no stakeholder participation, the financing instrument itself through Article 12:

“Non-governmental organisations (NGOs) contribute to the development and implementation of Community environmental policy and legislation. It is therefore

25 <http://ec.europa.eu/environment/life/funding/lifeplus.htm>

appropriate for part of the LIFE+ budget to support the operations of a number of appropriately qualified environmental NGOs through the competitive and transparent awarding of annual operating grants. Such NGOs would need to be independent and non-profit-making and to pursue activities in at least three European countries,” Ensure some form of engagement from non-government stakeholders.

e) Success

The LIFE to date has three completed phases of the programme (LIFE I: 1992-1995, LIFE II: 1996-1999 and LIFE III: 2000-2006). During this period, LIFE has co-financed some 3104 projects across the EU, contributing approximately €2.2 billion to the protection of the environment.

f) Failure

The LIFE has no mechanism for stakeholder participation.

2.12 IMPLICATIONS FOR THE LVETF

From the preceding paragraphs it is clear that the experience in establishing and operating environmental trust funds in the last two decades holds important lessons and implications for the LVETF. These lessons can be summed up as follows:

- a) The first and foremost question is if a Trust Fund is a good solution as a financial mechanism for the environment in the LVB. It should be noted that the LVETF can yield duplication in the basin and even lead to competition in the field of fund raising for environmental protection. However, in light of global findings, trust funds like the LVETF could also provide a framework to bring together the various governmental and non-governmental actors to spur collaboration and financing for the

environment in LVB. It is clear that this is fully dependent on the modalities of the LVETF;

- b) How to retain and ensure clear focus in terms of vision, objectives and strategy in line with strategic framework of LVBC and EAC;
- c) Clear relationship and formalised collaboration between LVETF, LVBC, EAC and member states;
- d) The required multistakeholder nature of EFs as reflected in the composition of the Board. EFs generally have a minority of government representatives, and include of donors and non-governmental stakeholders. This inherently leads to a decrease of influence of the LVBC member states on the fund's strategy and operations.
- e) Independent of the current institutions but aligned with and exerting influence on environmental policy and legal agreements all in order to operate efficiently and flexibly to fund the protection of the environment in LVB;
- f) What roles does the LVETF take, fundraising or also expanding roles in PES administration, fundraising and brokering finance from global PES mechanisms like Reducing Emissions from Deforestation and Forest Degradation (REDD), Certified Emissions Reductions (CER) and voluntary carbon markets, awareness raising and policy advocacy;
- g) The LVETF needs local and global champions and a strong profile in society in order to be established and generate the start up financing;

- h) The LVETF should take in the step wise processes like other environmental trust funds, the road map of the Biofund in Mozambique gives a good and tangible example of this process²⁶; and
- i) The CCRIF Trust Fund and EC LIFE+ Financing Instrument, provide very different ways for organising regional financing. The key issues with the effectiveness of the instrument and facility seem to be full government ownership and support.

26 Road Map for Establishment and Operation of a Mozambique Conservation Trust Fund, May 15, extracted from <http://toolkit.conservationfinance.org/> on 6 June 2011

Chapter 3. JUSTIFICATION, OBJECTIVES, SCOPE OF THE LVETF AND CURRENT FINANCING ARRANGEMENTS IN THE BASIN

3.1 JUSTIFICATION

The Lake Victoria Basin (LVB) is rich in natural resources and social capital including land, water, agriculture, fisheries, livestock, forests, wetlands, mining, energy, wildlife and tourism being the primary productive sectors. Due to the above important resources, the LVB was designated as economic growth Zone by Council of Ministers in 2002. It is from this understanding; the EAC established the Lake Victoria Basin Commission and its Secretariat to manage these resources sustainably.

In order for the Lake Victoria Basin Commission and its secretariat to be meaningful to the people and environment of LVB and entire EAC Partner States; it has to implement and meet its objectives for which it was established for. According to Protocol for Sustainable Development of Lake Victoria Basin Article 33 (2); the objectives of establishment of LVBC include a) to promote equitable economic growth; b) to promote measures aimed at eradicating poverty; c) to promote sustainable utilisation and management of natural resources; d) to promote the protection of the environment within the Lake Victoria Basin; and e) to promote compliance on safety of navigation. The broad functions of the Commission as stipulated in the Protocol for Sustainable Development of Lake Victoria Basin Article 33 (3): is to promote, facilitate and coordinate activities of different actors towards sustainable development and poverty eradication of the Lake Victoria Basin.

To manage the natural resources in the LVB, among other resources, sustainable funding mechanism is key factor to success. According to financial analysis conducted by LVBC Secretariat in 2010; the current primary funding source for Lake Victoria Basin Commission is from the EAC Partner States contributions. Second source is donor funding to support its Programs and projects. Partnership

fund agreement with Governments of France, Norway and Sweden; World Bank and East African Development Bank was signed in 2003. The Partnership Fund has played a big role in financing Projects and programmes in the LVB including Capacity building of the LVBC. Another kind of Partnerships is through the EAC, LVBC bilateral agreements.

According to LVB secretariat report (2010); the contribution of EAC Partner States to the total annual budget is about 20% to 30%; and is basically for salaries and office running. The Development Partners contribution is about 80% to 70% and is basically for specific projects and programme and capacity building (Figure 5). It is from these reasons , the LVBC Operational Strategy 2007-2010 and 2011-2016 Operational plan, recognised that the environment and natural resource initiatives within the Lake Basin cannot be sustainably managed using the current funding mechanism due to the fact that, EAC Partner States contribution is fluctuating and very limited; and Development Partners contributions are in specific projects and Programmes that address few areas as compared to the mandate of LVBC to manage its environment and natural resources.

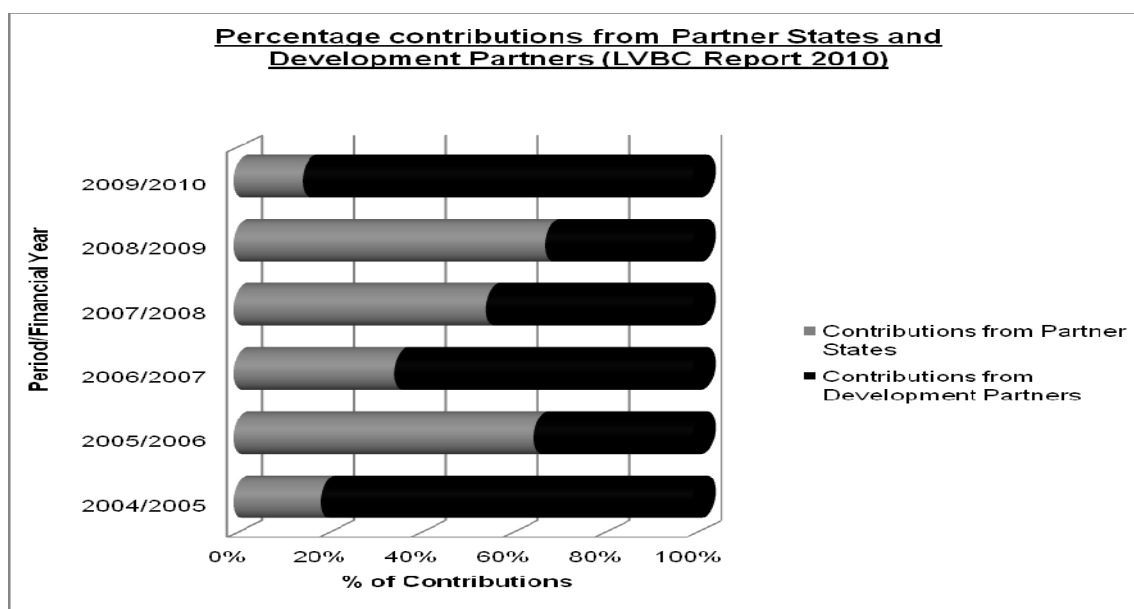


FIGURE 5: PERCENTAGE CONTRIBUTION FROM EAC PARTNER STATES AND DEVELOPMENT PARTNERS (DONOR) SOURCE –LVBC REPORT 2011.

Realising this gap, the LVBC Operational Strategy 2007-2010 propose to establish sustainable funding mechanisms for the LVBC. The proposal is supported by Protocol for Sustainable Development of Lake Victoria Basin Article 42(i and j) and Article 43 which emphasises the need for LVBC Secretariat to mobilise funds and developing a sustainable funding mechanism for facilitating sustainable development in the basin.

It is from this background and facts the LVBC Secretariat is developing Lake Victoria Environmental Trust funds to support the management of environment and natural resources.

3.2 RATIONALE FOR ADDITIONAL AND INNOVATIVE FUNDING MECHANISMS FOR THE BASIN

The threat already described in Chapter 1 are in themselves, a powerful rationale for both national and trans-boundary management efforts and concerted fund raising from all legitimate sources. This is because:

- a) The funding levels by governments in the region are devoted more to the national, rather than regional/ transboundary programmes and actions. The result is a general low priority given to cross-border programmes which require special forms of collaboration. In the absence of a body with a trans-boundary mandate such as the LVBC, the management of shared ecosystems and resources can easily flounder as actions in one country can be negated or compromised by contradicting policies across a border. A trust fund provides a facility for all forms of transboundary innovative funding outside in addition to normal government budgets;

- b) Since the LVB was declared an *Economic Growth Zone* by the East African Community it is important to promote economic development alongside

environmental management in a way that capitalizes on the strengths of each and does not pit economic development against environmental stewardship. In fact, the declaration gives a strong political direction which should be used to showcase a regional/ transboundary sustainable development approach, which can be used to raise funds both regionally and internationally given the importance of the lake to East Africa and the Nile Basin as well. A fund dedicated to environmental management is quite relevant to the declaration. In addition to the declaration, there is an existing EAC Environment and Natural Resources Committee, whose mandate is consistent with the proposed fund;

- c) International concerns associated with Multi-Lateral Environmental Agreements and the needs of the entire basin, does necessitate local, regional and international sourcing of funds;
- d) The basin and its aquatic environments are vulnerable to events associated with all manner of pollutants, particularly threats from transport oil spills, given the growing volumes of oil in transit and the current oil finds and explorations, which suggest that the basin could provide much higher yields of oil than currently thought;
- e) Cooperation to manage the basin has the advantage of improving regional integration through economic and political cooperation and in the process reducing potential for conflicts over water use and other resources such as fisheries and tourism developments is a crucial consideration; and
- f) The long term nature of management of the basin within rapidly changing demographics and associated increasing demands on the aquatic and terrestrial systems necessitates both short, medium and long-term funding horizons and plans require a regional approach to management.

The issues raised herein amply justify a dedicated fund to sustain regional efforts to manage the basin and ensure that the challenges of doing so remain topical issues for cooperation among Partner States.

3.3 KEY OBJECTIVES OF THE LVETF

The quoted reviews of EFs show that strong and clear focus is one of the success factors of existing EFs. Thus the LVETF has to focus on transboundary environmental and natural resources management. Any work in other sectors as poverty reduction, health and agriculture will be derived from the environmental focus.

a) Overall objective:

The overall objective for the LVETF is; **“To generate sustainable finance for the trans-boundary protection and wise use of the environment in the Lake Victoria Basin.”**

b) Specific objectives for the LVETF are:

- i. promote sustainable management of transboundary LVB Environment and natural resources;
- ii. promote the protection of the ecological sensitive areas within the Lake Victoria Basin;
- iii. To promote a clean and healthy environment in LVB as a prerequisite for “sustainable development”;
- iv. To manage LVB waters in an integrated and holistic manner linking the protection and conservation of natural ecosystems with social and economic development;

- v. To conserve the aquatic environment on the Lake Victoria Basin and promote its wise use in perpetuity; and
- vi. To promote regional policies and mechanisms that will provide long term sustainable funding to support priority environmental and natural resources management project and programmes in the lake basin.

c) Scope of the LVETF

In terms of scope, the stakeholders who were interviewed pointed out that overlap and duplication of the LVETF with national level initiatives like the recently gazetted Water Towers Conservation Fund (WTFCF) in Kenya and the National Fund for the Environment in Rwanda (FONERWA) among others should be avoided. The LVETF should have a regional scope and coordinate and collaborate with other funds. Its focus should be on trans-boundary natural resources management and add value to existing national mechanisms that national finance environment and natural resources management. Alignment with national environmental policies and strategies, multilateral environmental agreements and national initiatives was also stated as crucial.

It is proposed that a stepwise process in which stakeholders in the LVETF can be involved to review and adjust the scope and objectives of the LVETF itself, be put in place.

d) Funding priorities of LVETF

The LVETF needs to have clarity on which funding will be used for. The treaty and the LVB protocol have laid the foundations for the environmental and natural resources funding areas. During the preparation of LVEMP II, the GEF funded a Regional Trans-boundary Diagnostic Analysis in Lake Victoria Basin identified five

prioritised trans-boundary issues²⁷ here bellow which can be looked at as five priority funding areas of LVETF:

- i. land, wetland, and forest degradation;
- ii. weak governance, policy, and institutional framework on transboundary environment and natural resources management;
- iii. declined and loss of habitats and biodiversity;
- iv. pollution and eutrophication; and
- v. unsustainable LVB transboundary water resources management, declining water Lake Victoria levels, and climate change.

These five priorities could be elaborated and transformed into specific financing objectives for the LVETF considering to compliment and synergise with other institutions like the Lake Victoria Fisheries Organisation and the Fisheries Levy Trust Fund as well as the EAC Climate Change Fund²⁸.

It would be good to ascertain if stakeholders in the basin agree and buy in to these priorities. These stakeholders do not only comprise the member states, development partners, EAC and LVBC secretariats; but also the private sector in LVB in a multitude of sectors like fisheries, forestry, agriculture, mining, tourism, energy, industry, water supply and sanitation. The stakeholders comprise communities, CBOs and community and stakeholder bodies for forest management, water resource management, fisheries management and so forth. By incorporating representatives of these groups into the discussion on the objectives of the LVETF, stronger ownership and understanding of the environment in Lake Victoria basin will be created. As a result of the ownership, the chances increase

27 LVBC, Regional Transboundary Diagnostic Analysis of the Lake Victoria Basin, March 2007, Kisumu, Kenya

28 EAC Climate Change Policy, May 2010, EAC secretariat, Arusha, Tanzania.

that a wider variety of stakeholders start engaging in better environmental practices. Next to this, the stakeholders with their increased understanding, ownership and involvement, will be more likely to inform and follow policies and practices proposed by the LVBC.

The various projects carried out by LVBC specifically target the identified environmental priorities. However, as the LVEMPII project appraisal document notes, the project focuses on hotspots where priority issues are addressed²⁹. This goes for all the projects of LVBC.

3.4 FINANCING THE LAKE VICTORIA ENVIRONMENTAL TRUST FUND (LVETF)

In order for the LVETF to reach its objectives, the availability of and access to long term finance is crucial. The following are analysis of the current sources of finance from member states, development partners as well as their sustainability.

²⁹ Project Appraisal Document, Lake Victoria Environmental Management Project Phase II

a) CURRENT FINANCE FOR THE ENVIRONMENT IN LVB

TABLE 1: LVBC ENVIRONMENTAL PROJECTS FINANCING

Project	Start	End	Total Amount USD (Mio)	Average Annual Budget (Mio)	Donor	Countries	LVBC Role	Summary of Environmental Objectives
LVEMP II	02/06/ 09	30/06/1 3	90	22.5	IDA	UG,TZ,KE	Coordination	Strengthen Institutional capacity to manage shared water resources, fisheries, point source pollution, watershed mgmt, project co-ordination and management
			10	2.5	SIDA	LVBC, BU, RW	Coordination	
				0	GEF	LVBC,BU, RW	Coordination	
			7.8	1.95	Borrower	UG,TZ,KE	Coordination	
Water releases and abstraction					Partnership Fund	LVBC	Execution	
LVBC Core				2	MS through EAC	LVBC Core	Running Secretariat	LVBC vision and Strategy

Partnership Fund				2	SIDA France Norway WB, EADB	LVBC	Execution	Sustainable Dev of LVB
MERECF			4.8	1.2	SIDA Norway	LVBC,UG, KE	Coordination & disbursement	Mt Elgon ecosystem conservation
TWB - MRB (Mara)			3	1	USAID	EAC / LVBC	Coordination	Harmonisation of policies & laws
			115.6	33.5				

The current financing for environmental activities in Lake Victoria basin supports two categories of activities, regional level and national level activities. The regional level activities are focused on increasing the collaboration, coordination, and capacity of member states to address transboundary and regional environmental issues associated. The national level environmental activities occur in member states territory of the Lake Victoria basin.

The financing for the environment by the Lake Victoria Basin Commission is displayed in table 1 below. The projects that have been included are projects with direct benefits to the environment. This report do not included the WATSAN project. It can be argued that it has an environmental benefit but the majority of benefits are social. As can be seen from the table a total of USD 33 Million is available annually for activities associated with the environment of LVB. 94% of this funding is provided by development partners, member states fund the remainder 6% but this is the operations of the LVBC secretariat and that can be argued is not all accruing to the environment of LVB.

Member state financing for the environment in Lake Victoria basin proved difficult to assess. The efforts were made to produce an estimate of the public expenditure in the LVB for the Kenyan, Tanzanian and Ugandan parts of the basin. This is

72% of the total surface area of the basin. Consultant was unable to find information for the Rwanda and Burundi parts of the LVB. The public expenditure has been estimated by looking at the annual public expenditure of the governments of Kenya, Tanzania and Uganda on the environmental and water sectors. In Kenya, the environmental sector is combined with water and also captures the forests³⁰.

TABLE 2: ESTIMATION OF 2010/2011 KENYAN PUBLIC EXPENDITURE FOR THE ENVIRONMENT IN THE LAKE VICTORIA BASIN³¹

TABLE 2

KENYA	KENYA SHILLING MILLIONS	US DOLLARS MILLIONS
Environment, water & irrigation 2010 / 2011 Figures, Development Estimate		
Government of Kenya	15,710	
Loans	17,952	
Grants	5402	
Recurrent Costs	11,900	
TOTAL	50,964	548
ESTIMATE IN BASIN	3733	40.1

For Kenya it is reported that the budget spent on the environment (Environment and other natural resources sectors) is KES 509,664 Million, this equals USD 548

30 Medium Term Strategy Paper, 2010/2011 – 2011/2012, June 2010, Ministry of Finance, Republic of Kenya, Nairobi Kenya

31 Republic of Kenya (2011). Budget Highlights June 2011, Office of the Deputy Prime Minister and Ministry of Finance.

Million. When assigning part of this expenditure to the part of Kenya that is in the Lake Victoria (7.3% of the surface area of Kenya) leads to an estimated expenditure of USD 40.1 Million in the year 2010/2011.

In Tanzania, environmental related issues should be addressed as a cross cutting issue by the Vice President's Office (VPO). The consultant was unable to affirm how much of the sector is covered by the Ministry of Natural resources and tourism. In the period 2004 – 2008, the Tanzanian expenditure on Environment increased from TZS 353.3 million in 2004/05 to 410.5 million in 2005/06 and from 3,901.2 million in 2006/07 to 4,783.9 million in 2007/08³². In 2009/2010 the budget allocated by the Tanzanian government to the environment was 0.17 % of the total government budget³³.

In terms of expenditure, only information from the period 2004 – 2008 was obtained. The Public expenditure review for the Division of Environment³⁴ was quoted.

In 2004/05, actual expenditure for recurrent funds was 92% of the approved budget whereas in 2005/06 actual expenditure was 120% of the approved budget. The under and over expenditure during this period was attributed to late disbursement of funds at the end of the financial year which often resulted into rush allocation of funds by Treasury which do not necessarily adhere to the expenditure plan. In 2006/07, the actual expenditure of recurrent funds was 59% of the approved budget. This was attributed Government decision to reduce the

32 United Republic of Tanzania (2009), *Public Expenditure Review, Division of Environment, 2004/05-2007/08*, Vice President's Office, January 2009, Dar Es Salaam, Tanzania.

33 Budget background and medium term framework, 2009/2010-2010/2011, Ministry of Finance and Economic Affairs, The United Republic of Tanzania, November 2009. Dar Es Salaam, Tanzania

34 United Republic of Tanzania (2009), *Public Expenditure Review, Division of Environment, 2004/05-2007/08*, Vice President's Office, January 2009, Dar Es Salaam, Tanzania.

approved budget for all Ministries to deal with food shortage which was a national priority in the 2006/07 financial year.”

For Tanzania public investments by the Ministry of Natural Resources and Tourism as well as the Ministry of Water was included. Although the expenditure review shows that not all the budget was spent on environment, the assumption was between 80-90% was devoted to environmental management. The budget also specifies the contributions of development partners. Following the table below, the estimation of the expenditure for the year 2011-2012 at 80-90% of USD 9.264 Million was calculated.

TABLE 3: ESTIMATION OF TANZANIAN PUBLIC EXPENDITURE FOR THE ENVIRONMENT IN THE LAKE VICTORIA BASIN

	TZSh		USD	
	Sh	Forex		
VPO	4,707,489,894	69,958,444	2,683,269	39,876
MoA,FS,COOP	0	39,948,150	0	22,770
			0	
MOW	699,918,000	10,686,696,224	398,953	6,091,417
Policy & planning	114,910,000	3,084,130,420	65,499	1,757,954
WRA & exploration	248,231,000	13,428,519,382	141,492	7,654,256
Water Lab	152,220,00	492,875,00	86,765	280,939
Dir Irr Tech	7,613,042,00	4,684,795,653	4,339,434	2,670,334
UWSS	14,633,500,000	78,200,026,245	8,341,095	44,574,015
RWS	6,254,810,000	18,230,081,199	3,565,242	10,391,146
MEM	2,520,000,000	4,637,999,976	1,436,400	2,643,660
MNRT		487,481,939	0	277,865

Accounts	4,000,000	213,560,717	2,280	121,730
Wildlife	41,809,100	1,010,572,531	23,831	576,026
Forestry & Beekeeping	19,198,800	6,740,029,882	10,943	3,841,817
MoW	395,000,000	791,000,000	225,150	450,927
Total	37,404,128,794	142,893,395,762	21,320,353	81,449,236
Estimates for LVB	3,366,371,591	12,860,405,619	1,918,832	7,330,431
Total estimate for LV	16,226,777,210		9,249,263	

In Uganda consultant used the 2010/2011 expenditure that includes both water and environment³⁵. Next to this the budget specifies the contributions of donors.

TABLE 4: ESTIMATION OF 2010/2011 UGANDAN PUBLIC EXPENDITURE ON ENVIRONMENT IN THE LAKE VICTORIA BASIN

	2010 / 2011 Estimates	
	USH Billions	USD Millions
Water and Environment	134.72	51.19
External Donor	97.49	37.05
2010/2011 Numbers		
TOTAL	232.21	88.24
Estimate in the Basin	30.19	11.47

35 The Background to the budget 2010/2011 Fiscal Year, June 2010, Ministry of Finance and Economic Development, The Republic of Uganda

For the calculations, it was assumed that all public finance is distributed equally over the surface area of the country. This might not reflect the full reality but at least gives a direction for the public spending of the three member state countries in the LVB. Following the assumption, the estimate is calculated by multiplying the national budget with the division of the LVB surface area in the country and the total surface area of the country. This is a rough estimate with an assumption that does not do justice to the detail and policies of the governments. However the calculation does provide a figure that signals to the amounts of public finance that might be invested in the LVB as part of the territory of the member state. As noted before consultant did not have access to the budget figures in Burundi and Rwanda. Thus consultants have calculated the public investment in 72% of the LVB surface area. The amount that is provided for environment and water is estimated to be USD 60.9 Million per year. Extrapolating the number to the entire basin provides an estimate of USD 84.5 Million per year for the entire LVB. This amounts to an estimated public investment of USD 43 cents per ha/year³⁶. From the Kenyan, Ugandan and Tanzanian budgets it can be further calculated that between 75-86% of this amount is invested in water and mostly in water infrastructure for irrigation and water supply and sanitation. While this infrastructure is hugely valuable, installing it often has environmental costs. Correcting for this percentage, the public sector investment in the environment could be as low as USD 6 cent per hectare or an annual total of USD 12 Million per year in the entire Lake Victoria basin.

While this estimate for public expenditure on the environment of Lake Victoria Basin is surely inaccurate, it throws up important questions about the need for investment to sustain the environment and environmental surfaces in the Lake

36 The surface area of LVB is 194.000 km². The World Bank. 2009. PROJECT APPRAISAL DOCUMENT. Report No: 45313-AFR

Victoria basin. Even if the public sector investment would be ten times higher, it would still be too low to ensure the sustainable development of the LVB.

There are other sources of investment into environmental management activities in the Lake Victoria basin by civil society and private sector. The consultant has tried to obtain information on these investments but has been unable to secure it. Thus this report not able to provide a well founded financial estimate of the civil society and private sector environmental investment.

b) GAP ANALYSIS FOR ENVIRONMENTAL MANAGEMENT

In the previous section a measure of the availability of public and donor finance for the environment was presented. The 6-43 USD cent per hectare presented is low but does not clearly give us an understanding of the financial needs to manage the environment in LVB. This section tries to shed light on the needs and gap in financing to sustain the environment in LVB. While doing the analysis it quickly became clear that estimating the costs of managing the environment is a difficult exercise. Action plans for sustaining the environment and natural resources in the basin do not specify the financing needs.

The Regional Strategic Action plan (RSAP) has not attempted to come up with figures³⁷. The RSAP does however describe the main needs in the LVB. These can be categorised as:

- i. Awareness raising and capacity building;
- ii. Economic incentives, such as micro credit facilities, financial support: training courses, marketing of local products, marginalized groups, energy efficiency initiatives, promotion of new technologies and subsidies to drugs among areas of support;

37 EAC LVBC, March 2007. Strategic Action Plan for Lake Victoria Basin, Kisumu, Kenya

- iii. Technical activities including studies; demonstration and pilot projects, planning, training, institutional strengthening, baseline studies, monitoring, programme design and implementation, project identification, preparation and feasibility studies;
- iv. Capital investment to reduce and control pollution, infrastructure;
- v. Harmonization, implementation and enforcement of legal framework, institutional; and
- vi. Strengthening and the recurrent cost of monitoring, operation and maintenance.

Similarly, the Biodiversity Strategy action plan for the Mara River does not specify the funding needs for implementing the plan and sustaining the biodiversity and ecosystems of the Mara River Basin. It does describe the needs for intervention though. When elaborate strategy action plans are unable to place a financing requirement on their implementation, it is difficult to come up with the financing requirements for the environment in LVB under this assignment.

While it is difficult to assess the gap in financing, what can be done is to get a feeling for the reality of the current investment in the environment as presented in the last section and the value of the environment and the environmental services. To do this consultants looked at the two economic valuation studies for the Mara River Basin (400.000 ha) and the Mount Elgon landscape (570.000 ha). The total annual value of the Mau forest blocks USD 238 million³⁸. The total economic value of the Mount Elgon landscape is calculated to be USD 334 million³⁹. The Mau study shows that the current environmental use practices almost all negatively influence the economic value of the Mau.

38 The total economic valuation of the Maasai Mau, Trans-Mara and the Eastern Mau Blocks of Forests, Kenya. LVBC 2011

39 IUCN – MERECP 2009 A total economic valuation of the Mt Elgon Ecosystem of Kenya and Uganda.

A quantification of the environmental costs of the current natural resource use practice is not given. The same goes for the study of the economic value of Mt Elgon landscape, the study calls for a need to improve the price information system in the entire region but does to give a quantification of the environmental costs of current practices. Nor does the study give information about the investments needed to sustain the economic value. Both studies give insights in the economic value of ecosystems for society. This conveys a strong message but is not enough for implementing policy or other interventions. A follow up step is required to understand the cost of current natural resource use practices and the investment needed to sustain the environmental services of these ecosystems. As part of the development of innovative financing mechanisms in the framework of the LVETF, this step should and can be taken.

Concluding, based on the information available, this report is not able to estimate the investment needs to sustain the environment in LVB. However, comparing the economic value of two eco-systems (USD 500 million in 5% of the total surface area of LVB) with the USD 133 million investment in the environment in the LVB points to a large financing gap. As part of the further development of the LVETF, the step to quantify the costs and investment needs for sustaining key environmental services should be taken and brought into a framework of financing. This will be further discussed in Chapter 6.

c) SUSTAINABILITY OF THE FINANCIAL RESOURCE BASE

Within the context of the East African community and its subsidiary institution the Lake Victoria basin Commission, questions on and mechanisms for financing initiatives like the Lake Victoria Environmental Trust Fund depend on the existing structures, policies and strategies as well as the nature of the LVETF itself. This fact places the LVETF in the context of the resource mobilisation strategy of the East African Community. This means that the LVETF will directly contribute to

“generating more sustainable financial and non-financial resources that will allow the community to implement its mandate”⁴⁰. As pointed out, report assumes that the LVETF will be set up specifically to finance interventions in the LVB and on the environment and natural resources. Also assumes that the LVETF will be enabled to fund raise by itself in support of the mission and environmental priorities of the LVBC.

As noted above, the financing for environmental and natural resources activities in the LVB come from largely two sources, member state contributions and development partners. As mentioned the current financial resource base consists of main two sources of funding, member state contributions and funding as well as grants and loans from development partners.

a) Member state funding

Member state funding in the LVB falls apart in two categories, member state contributions to the LVBC and member state public finance for the environment spend within the member state territory. The member state contributions to the LVBC secretariat have been stable at around 2 million USD per year since the inception of the LVBC⁴¹. The resource mobilisation strategy points to communications that member state contributions are sometimes late⁴² but they do arrive.

To assess the sustainability of finance means looking into the future and predicting a certain outcome. Obviously, there is always a level of uncertainty associated with that. Bearing this in mind, consultants have analysed the development of the environment and water budgets in member states to

40 Mission of EAC resource Mobilisation Policy and strategy.

41 Personal communications Evelyne Odula

42 EAC resource mobilisation strategy

understand the financing trend. While the trend does not hold a guarantee for the future, it gives a sense of direction.

In Kenya, the budgets made available in the years between 2009/10 and 2011/12 by government for environment, water and sanitation are respectively KES 38116 Million (USD 400 Million) and KES 50963 Million (USD 536 Million). This is an increase in budget of 32%. The budget for environment, wildlife and forests has increased by 30%. As part of the overall budget the contribution to Water and Environment is stable at 2.4%. In both years, the contribution for the environment was 0.4% and 0.5% for 2009/2010 and 2010/2011 respectively. As mentioned before this budget is not solely available for the environment, about three quarters of it is in water and the majority in water infrastructure⁴³.

In Tanzania, the Vice Presidents Office in its 2009 Public expenditure review⁴⁴ reports an increase of both development and recurrent budget in the Division of Environment have been increasing in the period 2004/05 till 2007/08:

“For recurrent budget, during this period the requested funds increased from TZS 353.3 million in 2004/05 to 410.5 million in 2005/06 and from 3,901.2 million in 2006/07 to 4,783.9 million in 2007/08. This overall increment of the requested budget is equivalent to 1,254%. The approved recurrent budget increased by 1,133% from TZS 331.4 million in 2004/05 to 3,753.5 million in 2006/07. However, there was a slight decrease by 40% from TZS 3,753.5 million in 2006/07 to 2,307.8 million in 2007/08. The overall increase of the recurrent budget was due to funds allocated for the implementation of the Strategy for Urgent Actions on Land and Water Catchments which, started in March 2006 to address the environmental degradation challenges identified in the strategy. This was also due to increased

43 Medium Term Strategy Paper, 2010/2011 – 2011/2012, June 2010, Ministry of Finance, Republic of Kenya, Nairobi Kenya

44 United Republic of Tanzania (2009), *Public Expenditure Review, Division of Environment, 2004/05-2007/08*, Vice President's Office, January 2009, Dar Es Salaam, Tanzania.

political will towards environmental management; domestication of international agreements on environment; and intervention through various strategies for environmental management.” Comparing this with the budget for environment in the Vice President's office in 2010/2011 at TZS. 4,707 million, consultants concluded that budget is at a similar level.

In Uganda, government spending on water and irrigation has been increasing from 2009/2010 to 2010/2011 from 1.87% of the total Government budget to 2.71% of the total budget. The budget estimates in the subsequent years are at the similar level. Donor contributions in the subsequent years are down, this points to increase in the contributions out of the domestic non donor budget. The budget for the environment increased from 0.57% to 0.68% of the total budget in the same period. Budget estimates years beyond 2010/2011 are lower but this seems merely due to non-incorporation of donor funds in the budget allocation. Thus the non donor allocation in the budget is stable.

As mentioned before, the consulting team was unable to access the national accounts for Burundi and Rwanda to do similar calculations.

The partner state contributions to the LVBC operations have remained stable over time, but the consulting team was not able to identify member state public financing flowing to the LVBC environmental projects. Thus assume there are no specific member contributions to activities carried out by LVBC in environmental projects. Member states do fund or co-fund projects in the national territories. These funds are captured through the analysis of the government budgets above.

In conclusion, it can be seen from the figures and percentages above that government financing on environment and water in Uganda and Kenya has either been stable or slightly increasing. This trend while over a short period of time points to a relative sustainability of the level of government financing in both countries. In Tanzania, the public finance for both the environment and water has increased a lot since 2004/05 and when compared with the current budget and appears to be having stable.

The regional economic outlook for the EAC region and member states of the EAC is largely positive, all five countries have been among the fastest growing economies of Sub Saharan Africa. Part of this accelerated growth is due to “catching up” after a long period of strife in the region. While adherence to policy reforms has been strong in the period 2005-09, the per capita income levels remain low. The medium term prospects are good but will not be enough to achieve a middle income country status in the next 15 years. The report notes that “a continuation of prudent, market-based economic management should help sustain growth in the years to come. Compared to other fast growing regions, the region seems to lag behind in export growth. This is largely because of a limited physical and financial infrastructure, high regulatory costs as well as high financing requirements. Deeper integration of the region could help drive down costs and improve infrastructure thus facilitating higher growth rates. Overall the economic outlook for the region and the countries of the EAC is positive⁴⁵. This will result in higher revenues for the member state governments. In turn the odds of increased financing for the environment could be an important motor for increased and environmentally sustainable economic growth. Thus the probabilities of continued availability of at least current levels and even increased government financing are moderately high. The macro economic outlook as well as the historical facts can provide strong arguments for negotiating finance to the LVETF.

b) Development partners

A main contributor to the mission of the LVBC has been the Partnership Fund. The Partnership fund was established by an agreement on sustainable development signed by the EAC and the governments of France, Sweden, Norway, the World Bank and the African Development Bank in 2001. Recently the

45 Regional Economic Outlook Sub Saharan Africa – Recovery and new risks, IMF, April 2011, Washington DC, USA

Government of Finland has joined the Partnership Fund as well⁴⁶. Since then, contributions to the Partnership Fund have been stable at approximate 2 million USD per year. With the contribution of the Government of Finland this will increase by a quarter⁴⁷. The contributions have been mostly allocated to capacity building, research and as catalytic funds to spur new projects and initiatives of the Lake Victoria Development programme and the LVBC.

The LVBC also receives funds under specific project agreements. The LVEMPII project has the form of an Adaptable Programme Lending. The LVEMPII project document states that is because an APL will enable IDA credit to be provided in a flexible manner, when: (i) Borrowers have satisfied the eligibility criteria, and met policy and project triggers; and (ii) individual EAC Partner States ' priority investment proposals are ready to receive IDA credit support. The LVEMPII has three APLs for different phases of the project, clear eligibility criteria and triggers have been defined. The APL 1 and APL 2 run through FY09 – FY17. The period for APL3 is beyond FY13 and constitutes financing for scale up activities of the APL1. The APL as an instrument thus provides long term financing under clear criteria⁴⁸.

The consulting team consulted a subset of the donors of the Lake Victoria Basin Commission and asked them about long term sustainability of their financing for the activities of the LVBC. Development partners are bound by the specific time frames of the budgets allocated by their governments. Therefore the sustainability of these funds is not secure beyond the term. This is generally four years. However, they also referred to the long term commitments of development partners to the issues in Lake Victoria Basin. The Swedish Government is a good example of this. They recently published the results of their ten year relationship with the

46 Statement of the official joining of the Government of Finland to the Partnership Agreement and Partnership Consultative Committee by Ms. Anu Penttinen, 29 April 2011

47 Interview with Representative of the Finnish Embassy in Nairobi 13 June 2011

48 Project Appraisal Document, Lake Victoria Environmental Management Project Phase II

Lake Victoria Basin Commission⁴⁹. The conversation with the representative at the Swedish embassy as well as this publication highlights the long term commitment of a development partner to the Lake Victoria basin. This is not only true for the Swedish Government also other governments are invested for the long term. So while funding might be restricted to limited periods of time, the relationship of development partners with the LVBC are strong and have a long term focus. This alludes to high odds of the sustainability of financing from development partners. The various development partners express a very strong interest in financing the LVETF as financing mechanism for the environment in LVB.

49 The Lake Victoria Initiative, Ten years of Sweden EAC partnership, April 2011, Embassy of Sweden, Nairobi, Kenya

Chapter 4. PROSPECTIVE FINANCIAL RESOURCES

To understand the specific roles of a future Environmental Trust Fund, it is important to analyse and understand potential or prospective financial sources for the LVETF. In this regard, the consulting team looked at financing possibilities from Member States, Development Partners, the private sector and foundations. Elements of cost recovery as well as finance from global and local environmental and ecosystem services markets were also examined.

4.1 MEMBER STATES

As seen from the analysis of the previous sections, substantial additional member state financing for the LVETF is not very likely. However, depending on the institutional nature of the LVETF, member states could put their restricted funds to use by providing revolving support from the operations of the LVETF.

4.1 DEVELOPMENT PARTNERS

GEF under its International Waters objective 1 (IW1) “catalyze multi-state cooperation to balance conflicting water uses in trans-boundary surface/groundwater basins while considering climatic variability and change ” is especially focused to fund the sustainable operations of already established and agreed on strategic action plans and legal and institutional frameworks⁵⁰. While these plans are in place in the LVBC, increased GEF funding could be an option. A USAID representative noted that the GEF IW programme is receiving less funds

50 GEF International waters focal strategy, http://www.thegef.org/gef/sites/thegef.org/files/documents/document/GEF-5_IW_strategy.pdf

and competition for the funding is fierce. The World Bank representative said the odds of GEF financing are high for a well developed and designed LVETF that a large variety of stakeholders buy into.

The development partners USAID, SIDA and FINNIDA all noted that they can probably not finance an endowment fund for the environment of Lake Victoria basin. The endowment requires a large chunk of funding that cover a longer period of time. This type of financing does not fit well with the limited terms of the governments governing the spending of IDA budgets. The feasibility of capitalising an endowment fund by development partners' finance is thus very low. In the interviews the GEF was mentioned as a possible financier for an endowment to sustainably cover the core operations of the LVETF.

The majority of development partners consulted noted that they would be interested to consider start up funding for a Lake Victoria Environment. Also, two development partners said they would consider providing funds to a basket like the LVETF. Although the funds would not be part of an endowment they could capitalise a sinking fund for environmental activities in the region. Overall a lot of willingness with the development partners to consider financing start up activities, operations as well as a sinking fund under the LVETF.

There are prerequisites and criteria to receiving development partner funds. However these are the normal administrative and procedural requirements. The funds should be administered in an accountable and transparent way. Strong administrative systems and governance should be in place. Also stakeholder participation in decision making of the LVETF was mentioned as one of the requirements. Another requirement mentioned was the need for member states to contribute to the LVETF as a sign of commitment.

The EAFC meeting also discussed the opportunities for donor funding. The meeting highlighted KfW and FFEM. KfW reported to have Euro 100 Million under consideration for financing EFs. FFEM and the AFD are very much focused on innovation in financing for the environment. Grants from FFEM are generally in

the range of Euro 1-2 Million. Further fundraising opportunities with development partners can be found in the EAFC meeting report⁵¹.

In conclusion, the development partners seem to be very much willing to help facilitate the development of the Lake Victoria Environmental trust fund and finance start up, operations and a sinking basket fund for the environment in Lake Victoria Basin. Key requirements to consider are accountability, good governance, transparency and wide stakeholder participation in governance systems.

4.2 FOUNDATION AND PRIVATE SECTOR FUNDING

Currently the LVBC does not receive funding from charitable foundations nor from the private sector. As above, member states and development partners will only provide limited finance for LVETF. The LVETF, if set up with a clear focus on the environment and as an effective and efficient instrument for financing the environment and Natural resources in LVB might be more attractive to private sector and charitable foundation funding. Normally, foundations and private sector financiers want to see clear direct benefits of their 'investments', even if these investments take the form of grants or donations, focused on a clear mission which is often charitable and in the public interest. For the private sector their interest is in retaining and opening new markets as well as driving down risk associated with environmental costs of their operations and their reputation in social and environmental matters.

The LVETF as resource mobiliser for the environment and natural resources in LVB could with the right fundraising strategy get easier access to the local and global markets of foundation and private sector funds. It requires a more detailed

51 Joining Forces: The Dakar Meeting of African Environmental Funds Organized by the CFA African Environmental Funds Committee September 2010 , EAFC, <http://conservationfinance.org/wg.php?pg=4>

market study to assess the volumes and potential private sector and foundation funders of the LVETF. Examples from the BMCT and Eastern Arc Mountains Conservation Endowment Fund (EAMCEF)⁵² show that private sector financing and interest can be generated. Swarovski and Unilever are engaged with both funds. The reason for this is that they have been able to provide tangible (communications) benefits to these two private sector companies by the outcomes of the activities that both funds focus on.

The EAFC meeting reported that EFs have the challenge to fund raise with these donors as they do not have a lot of history and experience in doing so. For the LVETF this means that part of its fund raising department should be equipped with the capacity and networks to access these donors.

In conclusion, a well developed, efficiently and effectively operating LVETF will have good odds to fund raise from foundations and global and local private sector. There are examples of funds that have accessed private sector finance. If it wants to access these funding opportunities the LVETF should ensure to have the capacity and networks to do so.

4.3 COST RECOVERY

Cost recovery can be employed to recover the cost of the operation of the LVETF. The CFA review states that a number of donors, such as the US Government and GEF, include provisions in their grant agreements with Conservation Trust Funds that establish a ceiling or a maximum percentage (commonly 15 percent, but as low as 10 percent or as high as 25 percent) of a EFs budget that can be spent on administrative expenses⁵³, and a number of donors accept cost recovery options

52 <http://www.easternarc.or.tz/home>

53 Conservation Finance Alliance (CFA). 2008. Rapid Review of Conservation Trust Funds. Prepared for the CFA Working Group on Environmental Funds by Barry Spergel and Philippe Taïeb.

for their beneficiaries. Within USAID it depends on the organization but the upper limit is 25%. With SIDA, DGIS and NORAD the fee can go up to 12.5%. The United Nations generally use is 8%⁵⁴. The experience with the private sector donations is that an administrative fee of 15% is acceptable⁵⁵. Obviously, cost recovery can only be employed when funds have been raised from a donor. It is a strategy to partially recover the costs of operations, and help build up reserves of an organisation that can used to finance emergency or other special situations, but cannot provide financing to environmental activities in the LVB.

For the LVETF this could work in the following way. The LVETF raises funds from sources for environmental management activities in the territories of the Partner States. Because the LVETF is the fund raiser and contractor, the funds would flow through LVETF to the Partner States. Because the LVETF is managing the funds, it can charge a cost recovery. This funds thus received from cost recovery will pay part of the operational costs of the LVETF. Depending on the institutional nature of the LVETF (either within EAC or without) the cost recovery system could require negotiation agreement with the EAC governance and partner state.

4.4 DEBT FOR NATURE SWAPS

Another source of income for the environment has been debt for nature swaps. A debt for nature swap is a financial transaction in which a portion of a developing nation's foreign debt is forgiven in exchange for local investments in environmental conservation measures. The financing mechanism for debt-for-nature swaps is an agreement among the funder(s), the national government of the debtor country, and the conservation organization(s) using the funds. The national government of the indebted country agrees to a payment schedule on the amount of the debt forgiven,

54 Personal communications WWF – representative

55 Fundraising experience within the context of the Water Footprint Network – www.waterfootprint.org

usually paid through the nation's central bank, in local currency or bonds. The conservation organisation receives the bonds or the funds and executes nature conservation and environmental management activities. Debt for nature swaps have occurred since 1984 and seen a decline in the mid to late nineties. Since 2000 only two debts for nature swaps have occurred each year. The reasons mentioned for this decline are the criticisms on the debt for nature swap ranging from misappropriation of funds, to over estimation of financial and environmental benefits⁵⁶. As a funding source for the LVETF, debt for nature swaps need further investigation; because LVBC is not a country and no debt is expected.

4.5 ENVIRONMENTAL OR ECOSYSTEM MARKETS

It is believed that the largest most sustainable funding source for the LVETF will be in financing through environmental or ecosystem markets globally and locally. However, this financing requires investment in capacities, policies and institutions within the region to enable access and develop the funding mechanisms. If made part of the fundraising strategy of the LVETF, this could form a medium/long term sustainable source of finance. Below explanation is given about the possibilities of global and local ecosystem service markets.

4.5.1 PAYMENT FOR ENVIRONMENTAL / ECOSYSTEM SERVICES

a) Ecosystem / Environmental Services

Ecosystem services can be defined as the benefits that people obtain from ecosystems. According to the Millennium Ecosystem Assessment, 63% of these benefits are in decline at the global scale (MEA 2005). Typically the services include supply of clean water, soil conservation, timber, livestock production, non-timber forest products, tourism (aesthetics) and more recently carbon

⁵⁶ http://en.wikipedia.org/wiki/Debt-for-nature_swap

sequestration. The concept of Ecosystem or Environmental Services has gained popularity in recent development discourse in which the reliance of human life on the natural world, and the imperative to conserve it and sustainably use it, is being re-emphasized. This is not because it is a new phenomenon but more so, because the recent Millennium Ecosystem Assessment (MEA) has again brought to surface, the importance of the natural world; mainly biodiversity and ecosystem services as a way of framing current conservation and environmental policy (Redford and Adams 2009), at local, national and global scales. Today the concept is used by conservationists and advocates for sustainable development to explain the importance of managing natural systems to sometimes skeptical policy makers whose instincts tend to favour economic development and are keen on how natural systems can be used, or even altered to meet economic development objectives of nations.

In this regard, the Lake Victoria Basin presents a classical model where economic activities take place with an iconic freshwater lake. Indeed the freshwater centered system and its declaration by the East African Community as an Economic Growth Zone, makes it an important platform to clearly state which ecosystem services are relevant and the values they represent to society and nature. The threats that have been described for the LVB are a reflection of economic activities that interact with and depend on the natural systems; in effect they describe a classic Social-Ecological System. The Millennium Ecosystem Assessment showed that human use is increasing for all ecosystem services studied except for wood fuel, agricultural fibers, wild terrestrial foods, as societies modernize and economies improve (Carpenter et al 2009). In effect the assessment asserts that the biodiversity effects must be understood in social-ecological context and that drivers such as those that affect the LVB also tend to have direct effects on ecosystem services and these changes in ecosystem services may then evoke feedbacks through human responses. In practical terms, the conceptual framework for the MEA is that it views ecosystems through the services they

provide to society, how they benefit humanity and how human actions alter ecosystems and the services they provide.

b) Payment for Ecosystem / Environmental Services

Developments from the 'schools of thought' that promote public policies that recognize the values of ecosystem services and call for their deliberate management in the recent past have inevitably led to discussions on how to pay for such management. At this point it pays to recognize that payment for the management and sustainability of such services suggests that those services have values to society. In this context Payment for Ecosystem/ Environment Services (PES) is a new way of raising funds to manage systems that offer those services. In the literature, some refer to markets for environmental services (MES). This report draws no distinction between the two concepts of PES and MES. Hence arranging payments for benefits such as flood control and water purification in a wetland or for the protection of fish breeding sites (mangroves in coastal waters and swamps along lake shores) is a way to recognize their values and ensure that such benefits continue into the future.

A PES scheme typically requires three steps namely (WWF-MPO 2003):

- i. An assessment of the range of ecosystem services that flow from a particular area and who they benefit;
- ii. An estimate of the economic value of these benefits to the different groups of people; and
- iii. A policy, subsidy or market to capture this value and reward landowners for conserving the source of the services.

In general, PES is based on the principle that those who provide benefits be compensated for the cost of maintaining the services by the direct beneficiaries of those benefits. The costs for which people can be compensated can be direct, such as active interventions in land management or the indirect opportunity costs

of productive uses that are forgone *in lieu* of providing the ecosystem or environmental service.

Another aspect of such payments is that they can be *monetary or in kind* and players may be individual landowners, the private sector or government and payments can be made at local, national and local levels.

Any PES system involves buyers and sellers who ideally should come together on a voluntary basis and prices are set through the interaction of supply and demand. There are however variations where entry into a PES is not entirely voluntary nor do markets necessarily set prices. In a municipal water supply system for example, the price a Municipality pays watershed land owners is simply passed on to the consumer without supply and demand considerations in pricing. Furthermore governments also tend to administratively set prices for certain services associated with the use of public spaces such as protected areas.

4.5.2 ENVIRONMENTAL / ECOSYSTEM SERVICES RELEVANCE TO THE LAKE VICTORIA BASIN

The main types of environmental services that have been addressed by PES/MES include carbon sequestration, watershed protection, landscape beauty and biodiversity conservation. Each of the above are described and their relevance as potential sources of funding for the environment of the Lake Basin are also discussed.

a) Carbon sequestration under REDD and CDM Schemes

The capacity of forests to sequester carbon is now an internationally recognized Climate Change Mitigation mechanism. These operate through the increase in the enhancement of carbon stocks on degraded forests and the planting of new trees (afforestation, reforestation and agroforestry) that sequester carbon as they grow

on the one hand, and the avoidance of carbon emissions by retaining trees on landscapes; also known as avoided deforestation. It is for these that the Stern Report (Stern 2007) make a convincing case that reduced emissions from deforestation and forest degradation (REDD) could help remove just under 20% of total global carbon emissions into the atmosphere. This is because the share of carbon emissions attributed to loss of forest cover is also about 20%, hence the economic appeal of REDD. Prior to REDD a number of developing countries have been participating in international global markets under the framework of Clean Development Mechanisms (CDM); a mechanism of the Kyoto Protocol which comes to an end in 2012. The CDM because of its stringent, expensive and complicated processes has not been accommodating of forestry projects except very few. For the most part, a number of CDM projects which are claiming carbon credits are in the technology sector where energy efficiency gains are made and less carbon is emitted, for which efficiency gains are credited in carbon equivalents. In the same context, a few projects in Africa that promote fuel efficient stoves do qualify for carbon credits under a special CDM Mechanism known Programmatic CDM.

Since REDD is certainly going to be a part of any post Kyoto Climate Change Agreement it is worthwhile to describe the concept and its main components and applicability within the Lake Victoria Basin.

b) The Concept of REDD

“REDD and REDD+” may cover:

- i. *carbon stock losses*, caused by deforestation, degradation, clear-cutting without land-use change, selective harvesting, preparatory cuts for regeneration, pre-commercial or commercial thinning and directly or indirectly induced losses from anthropogenic or natural disturbances;
- ii. *carbon stock gains* caused by re-growth, natural or enhanced increment, natural expansion of forests, afforestation, reforestation, forest

rehabilitation, forest restoration, soil amelioration, managerial choices of rotations, cutting cycles, and allowable cut; and

- iii. *Carbon stock conservation* by stewardship and protection against natural and anthropogenic disturbances, in Southern Africa particularly fires, reduced impact logging and, more efficient conversion of standing timber to forest products. Thus, countries may benefit from REDD even if deforestation has ceased and forest carbon stocks remain static.

c) Basic components of a national REDD programme

The basic components of a national REDD programme covers three main core technical areas which are essential for addressing the key drivers of deforestation and forest degradation and for carbon accounting.

As such the core requirements are stated as follows:

- i. Countries must establish a national or sub-national strategy or action plan which addresses, inter alia, the drivers of deforestation and degradation and countermeasures, tenure, forest governance, gender and ensures full and effective participation of relevant stakeholders, local communities and indigenous peoples;
- ii. Countries must establish forest reference emission levels or forest reference levels, based on historic data and appropriate adjustments for national circumstances; and
- iii. Countries must establish a national forest monitoring system, that combines remote sensing and ground-based forest carbon inventory approaches for eligible activities and safeguards listed below. The monitoring must be consistent, transparent, and as far as possible accurate and the results must be available for review, IPCC guidelines for carbon inventories must be used.

To be environmentally effective, emission reductions or carbon removals from the atmosphere must be additional to 'business as usual' at the sub-national, national and global scale. Historic emissions from deforestation can serve as a point of departure to set a baseline, or "reference emission level", from which increased carbon stocks (removals) or decreasing carbon stocks (emissions) can be estimated and credited or debited respectively.

To achieve the objectives entailed by the above core requirements countries must also have supportive policy and legislative frameworks and the technical and institutional capacities needed to address the drivers of deforestation and forest degradation. Capacity building at all necessary levels, national coordination structures and policy and legislative reforms are therefore crucial for the above three core technical requirements.

The design and implementation of any REDD programme is guided by a set of principles and safeguards which are listed herein.

d) Safeguards during implementation

- i. Consistence with National Forest Programmes and international agreements;
- ii. Transparent and effective national governance structures;
- iii. Knowledge and rights of indigenous peoples and local communities with a reference to the UN Declaration of the Rights of Indigenous Peoples;
- iv. Effective stakeholder participation, in particular indigenous peoples and local communities;
- v. Conservation of natural forests and biological diversity, enhancement of other social and environmental benefits; and
- vi. Prevention of leakage and emission reversals.

e) Principles to guide implementation of REDD

The principles upon which a REDD or REDD+ may be developed are:

- i. Country-driven and voluntary;
- ii. Consistent with national development needs and goals;
- iii. Facilitate sustainable development, reduce poverty and be consistent with adaptive needs;
- iv. Promote broad country participation, e.g. of countries without deforestation;
- v. Consistent with a low greenhouse gas emission strategy or integrated with Nationally Appropriate Mitigation Actions (NAMAs) under the United Nations Framework Convention on Climate Change.;
- vi. Subject to financing, technology transfer and capacity building;
- vii. Results-based; and
- viii. Promote Sustainable Forest Management

g) Possibilities of implementing REDD in the Lake Victoria Basin

Some of the threats in the basin such as deforestation and soil erosion do give improved forest management, afforestation and reforestation relevance. In addition and given the current global emphasis for climate change mitigation and the more local concerns with adaptation, the use of REDD+ and any future CDM arrangements as mechanisms for PES systems are attractive for a number of reasons.

Critical river catchments whose vegetation cover maintain the quality of water inflows into Lake Victoria, such as the Kagera (The Kagera – Ruvubu- Nyawarongo Rivers System), Nzoia and Mara River catchments are threatened by agricultural expansion, overgrazing, over-harvesting of wood and encroaching human settlements.

The above issues suit interventions associated with REDD+ namely enhancement of carbon stocks and creation of new carbon sinks through reforestation and afforestation programmes. In fact creating conditions for natural restoration of degraded forest cover has been shown as a cost effective measure than active tree planting which is often recommended or applied.

The catchments and many others in the basin warrant the assessment of the status of vegetation cover on fragile sites such as slopes, river / stream banks and wetlands and existing carbon stocks, which will be useful in designing carbon projects for which credits can be sold in voluntary and future REDD+ and CDM mechanisms. One advantage for the Lake Basin Commission to engage in REDD+ is because the three Riparian Countries, Kenya, Tanzania, and Uganda have joined the Forest Carbon Partnership Facility (FCPF) of the World Bank, which like UN-REDD is helping countries to prepare national REDD+ programmes within the framework and principles already described above⁵⁷. The LVETF as a resource mobiliser for the environment in LVB should therefore liaise with the three Member States to ensure that critical sites within the basin in which REDD+ potential such as the river catchments should be managed under REDD+ as a mechanism to raise funds for management and for incomes to local and collaborating communities. It is in this context that a special focus on the catchments of the biggest inflow by volume into Lake Victoria, that is the Kagera System, is amply justified, and should be a premier REDD+ site. Likewise the Mara and Nzoia River systems with commercially active downstream users (commercial farming, industry, tourism, biodiversity conservation) are also highly amenable to PES.

This is clearly shown by the recent news that a company called Wildlife Works Carbon delivered the Kasigau Corridor REDD Project, Phase II - The Community Ranches in Kenya which results in the avoidance of over 1 million tonnes of CO₂-

57 <http://www.forestcarbonpartnership.org/fcp/node/203>

emissions per year for the next 30 years and covers 500.000 acres of forest⁵⁸. REDD+ is proving to be interesting business also to the international banking community, the BNP Paribas bank from Switzerland invested USD 50 million in Wildlife Works Carbon to acquire 1.25 Million tonnes of carbon over the next five years. These developments signal a rapidly growing market of REDD+ carbon projects⁵⁹. Communications with brokers in the carbon market shows that they are seeking iconic projects for their clients⁶⁰.

In terms of global carbon market development, the market is growing annually, the State of the Forest Carbon Market 2009 review shows that the volume of transactions was USD 149.2 million in forest carbon credits in 2009⁶¹. It is without doubt that the market for forest carbon will grow rapidly. The involvement of the LVETF to create or strengthen both regional and national institutional arrangements to enable this to happen is quite crucial and opportune at the moment.

h) Watershed Protection

The well known role of forests and other vegetation in the protection of watersheds is quite well described in the literature. Forests do regulate water flow by slowing overland flow and aiding infiltration through their roots and stems. They also cause delayed flow through underground storage and slow release which is important in reducing flash flooding. In general the quality of water under forest cover is better than from land that is not under forest cover.

58 <http://www.wildlifeworks.com/WWCarbon/WWCarbon/Welcome.html>

59 <http://www.wildlifeworks.com/WWCarbon/WWCarbon/Welcome.html>

60 Personal communications First Climate

61 Katherine Hamilton, Unna Chokkalingam, and Maria Bendana , State of Forest Carbon Markets 2009, January 2010, Forest Trends, Ecosystem Market Place, Washington DC, USA.

In general watershed services generally benefit downstream water users who have a stake in high quality water which is attracts lower purification costs than dirty water.

The development of markets for such services requires the organization of producers and users in the form of cooperatives which enables them to come together to formulate things such as group payment strategies and to exclude non-members. Experience also suggests that given the large numbers of stakeholders that would be involved in watershed management and downstream users it is advisable that payments are administered through intermediaries who broker negotiations between service providers and buyers and to oversee the implementation of contracts and agreements.

The State of Watershed Payments report identified 20 PWS programmes of which 10 are active in East and Southern Africa. The total transactions in these 10 projects in 2008 were USD 63 million covering an area of 200.000 acres. Kenya and Tanzania were reported to have 3 and 2 active projects respectively. The historical transaction in the period 2000-2008 amounted to USD 507 Million. As examples of PWS in Africa these programmes hold strong expertise and capacity on establishing and running PWS schemes for financing environmental management and protection⁶². The LVETF can take full benefit of this and start mainstreaming and leading the establishment of more schemes. As the Mau and Mt Elgon areas (which will be discussed later) are most advanced, targeted engagement to design PWS schemes there in conjunction with REDD+ mechanisms might generate strong revenue for environmental management.

Within the Lake Basin, the catchments of the Kagera, Nzoia and Mara, the waters of which are abstracted for industrial use and large-scale commercial agriculture

62 Stanton, Tracy; Echavarria, Marta; Hamilton, Katherine; and Ott, Caroline. 2010. State of Watershed Payments: An Emerging Marketplace. Ecosystem Marketplace. Available online: http://www.forest-trends.org/documents/files/doc_2438.pdf

and for the Mara, nature conservation are cases in point from which businesses and urban water supplies could be persuaded to join PES with upstream land owners and managers; essentially creating a market. In more advanced countries water table regulation is commoditized in a number of ways, so are salinity credits and stream flow reduction licenses. Management activities may include:

- i. Refraining from certain types of activities such as pesticide use;
- ii. Maintaining natural forests; and
- iii. Tree planting.

i) Swamps and wetlands for Flood Control, Biodiversity Conservation and Carbon Storage

As already described in documents of the Lake Victoria Basin, there is considerable land surface under swamps and wetlands associated with all the countries in the basin. Of note is that Uganda has the highest proportion of her land surface under swamps (12%) and wetlands. All around Lake Victoria occur wetlands which play significant ecological roles as breeding sites for the lakes economically important fishery. The Kagera basin is also rich in wetlands a number of which have been drained for agriculture and others in various stages of degradation caused by rising populations in demand of agricultural land and dry season agriculture and fish.

The ecological importance of wetlands as keystone habitats, water purification aided by their vegetation and their unique attribute in flood control is now well recognized. In the era of climate change, the significant amount of carbon locked in swamps in the form of organic matter, peat and live vegetation has also re-awakened interest in their protection, management and sustainable use.

What is needed is for the environmental or ecosystem service values be commoditized, particularly with respect to water for livestock, grazing, and carbon,

and presented to policy makers and markets for environmental services, particularly carbon.

The carbon captured and stored in the huge wetlands of Uganda if quantified in terms of tons of carbon per hectare has the potential to attract carbon credits in the voluntary carbon markets, within a context similar to ‘*avoided deforestation*’; which in this case, would “*avoided swamp drainage*”. Besides such a national outlook, all the major wetlands in the basin can be bundled together and funds received can be proportionately shared and used to fund their protection and management, through a regionally recognized institutional framework.

j) Landscape beauty

The ecosystem services that are marketed, landscape beauty is relatively easy to recognize because of its association with tourism. However one of the problems is that often tour operators unless it is a government controlled protected area are generally unwilling to pay for landscapes which they consider free inputs. In general ecotourism is touted as a growing industry but payment systems remain underdeveloped especially on common access spaces such as a lake or a river. If markets have to be strengthened it will require institutional arrangements to support them.

It is however possible within the region that access to areas owned privately or communally could be developed for ecotourism and for which payments for use or entry can be more easily determined and collected. Community based tourism sites could be identified and helped to develop in the lake basin.



FIGURE 6: WILDLIFE AS SOURCE OF TOURISM AND INCOME

k) Biodiversity

The conservation of biodiversity, while scientifically founded is an area where a number of developing countries have had to rely on external funding to put into conservation in addition to the management of formally protected areas. The services provided include the maintenance of ecosystem functions such as nutrient cycles, decomposition, and pollination. In addition they do have option and existence values. Option values are those that can potentially be used at a future date, and the values of existence. In effect most of the services are intangible and therefore not easy to package and market. To date a few specialist markets for biodiversity exists. For example, the Critical Ecosystem Partnership is a trust fund which pools finance for biodiversity conservation in critical ecosystems around the world and was launched jointly in 2001 by the World Bank, Global Environmental Facility (GEF) and Conservation International⁶³.

63 <http://www.cepf.net/Pages/default.aspx>

1) **Analysis of Mau forests and Mount Elgon PES case studies *Mau Forests***⁶⁴



FIGURE 7: MAU FOREST -2007

A study commissioned by the LVBC and conducted by the Environmental Research and Policy Analysis (K), provides an excellent discussion and presentation on how to describe the several ecosystem services provided by the Mau Forest Complex and to which an attempt to put some monetary value. The services include water, soil conservation, contribution to tea production, timber, carbon sequestration, bio-diversity. Using a number of economic techniques the study estimates the annual value of the Mau Forest Complex to be 238 million US dollars of which 12 % constitutes direct use values of resources provided by the forest complex.

From a PES perspective the Mau provides an excellent example of a critical forested watershed supporting an agricultural community on its slopes and lower reaches, a further downstream it provides critical services to a famous pastoral

64 The Mau Forests: The total economic valuation of the Maasai Mau, Trans-Mara and the Eastern Mau Blocks of Forests, Kenya. LVBC 2011.

community; the Maasai and two iconic wildlife conservation areas; the Mara and Serengeti Systems. From the study the following can be concluded:

- i. There is a clear case where downstream tourism linked to two biodiversity hotspots (Maasai Mara – Serengeti) and an iconic ecological process (annual large mammal migrations) could consider ploughing back some of its proceeds to upstream communities in exchange for maintaining environmental flows down the Mara;
- ii. Water abstraction from the river should be strictly regulated and communities must be organized to enable the adoption of sustainable practices and respect or allowances for traditional use of the waters. In addition the current commercial use for agriculture should attract user fees since they abstract water for irrigation;
- iii. There are a number of degraded areas which can be managed as forest restoration sites to improve cover, biodiversity and enhance carbon stocks, for which carbon credits can be sold in voluntary and regulated markets;
- iv. The Mau is a classic case that can be managed within a future REDD+ scheme;
- v. Since only rough estimates of carbon stocks were used, it is important that LVBC consider funding formal carbon stock assessment on the catchments of key rivers that flow into Lake Victoria; Mau, Elgon and the Kagera Catchments; and
- vi. It is also possible through government incentives to increase carbon stocks on farm land through agroforestry, border plantings and woodlots to supply local timber and other woodbased needs.

Mount Elgon



FIGURE 8: MOUNT ELGON ECOSYSTEM

In terms of methodology the studies are essentially the same and have treated and highlighted virtually similar ecosystem services with only minor differences. Like in the Mau Forest Complex the study recognized use and non-use values. The ecosystem services were also biodiversity and landscape beauty (for tourism), soil protection, water conservation, carbon absorption value. Direct use values were tourism, grazing, fuelwood, pulpwood / transmission poles, timber, honey, bamboo and indigenous vegetables. In their studies all these have been valued in monetary terms.

The total economic value from the combined Ugandan and Kenyan sides of the mountain was estimated to be 334.7 million US dollars per year. The difference between this figure and the Mau Forest Complex is probably because the contributions of the Mau Forests to the Mara and Serengeti Parks, which depend on the Mara were not factored but nonetheless the results are quite interesting and well presented.

Again from a PES perspective one can state the following:

- i. The potential for REDD+ in terms of avoided deforestation and enhancement of carbon stocks is quite high. In fact the Ugandan side has more potential for forest restoration carbon projects because of higher degradation than the Kenyan side;
- ii. On the Kenyan side, there is potential to have PES systems applying to downstream commercial agriculture and industrial abstraction by firms like Webuye Paper Mills;
- iii. Given its importance as a major inflow into Lake Victoria, the two countries should be persuaded by the LVBC to make public investments for upstream communities to maintain and increase forest cover; and
- iv. Again the formal assessments of existing carbon stocks in intact and degraded forests should be conducted.

The situation to manage the Mau forest catchment as well as the Mt Elgon catchment for downstream water use and water quality purposes could clearly take lessons from other projects like the Lake Naivasha Payments for water shed services⁶⁵ and the Sierra de Las Minas Payments for watershed Services Programme. In the case of the Sierra de Las Minas, the downstream water users pay land owners in the upstream catchment (Motagua watershed) for catchment

65 WWF ESARPO personal communications

management interventions. The intermediary in the process is the Water Fund which is a trust fund that receives payments from users and channels these to activities in the upstream catchments⁶⁶.

m) Managing the risks that may be associated with PES systems

Despite the virtues of PES systems as innovative funding mechanisms for natural resources management, one must be aware of some of the unintended risks (WWF 2003, Redford and Adams 2009) that need to be managed in the implementation of any PES system. These are listed herein.

- i. Conservationists fear that in a world that is driven largely by economic logic, there is a risk that economic arguments on services valued by human beings may override and outweigh non-economic arguments for conservation. Hence PES should just be one among many tools and LVBC should not lose sight of others in the pursuit of sustainable development;
- ii. There is an assumption that all ecosystem services are benign and are beneficial to human life but this is not so as clearly indicated by ecological processes such as fire, drought, disease or floods have shown. While these are vital ecological processes an economically driven focus may only chose to manage those that are suited to human needs;
- iii. Ecosystem services need not be provided by native species. For instance, carbon sequestration or soil stabilization functions can be perfectly served by plantations with exotic species which reduce biodiversity and modify or change services;
- iv. The need to supply services that are recognized by the market may also lead to only a few services or single service provision (plantation, water purification) being maximized at the expense of others, which may be

66 http://www.watershedmarkets.org/casestudies/Guatemala_Sierra_Minis.html

ecologically just as important but have no recognized market value. Since markets are only available for certain services, current valuation systems still have limits;

- v. As ecosystem services become increasingly scarce and valuable there is likely to be intense competition over their control and supply. Where such are privatized, issues of equity will apply. In fact the current issue of REDD+ is already facing the challenge of *carbon rights* as it pertains to local communities and forest-dependent people, on the issue of *benefit sharing* with government and other land owners; and
- vi. Because the impacts of climate change are still generally unknown, there is a danger that a particular service being sold may be affected and managers may resort to desperate actions to sustain a service.

The above issues are worth having in mind as LVBC design PES systems and create institutional arrangements to support them.

4.5.3 SUMMARY OF KEY RECOMMENDATIONS ON PES AS FINANCING FOR THE LVETF

From the readings of a number of documents and comments in this report a few recommendations regarding the place of PES can be made. These are briefly stated and explained in the next paragraphs.

- a) In the face of threats to the management of natural resources in the lake basin and in view of insufficient funding to manage those resources, the application of the concept of PES is definitely relevant in the basin. PES in this regard can be used to raise funds within Member States and also regionally from the use of resources such as water and fish by commercial entities and plough the funds back into resource protection and

management. In addition, PES can facilitate payments to communities or individual land managers who are contracted to manage particularly important watersheds, such as the catchments of the Kagera –Ruvubu-Nyawarengo River System;

- b) PES should target key ecosystem services such as watershed protection, fishery resources which promote maintenance of water quality and quantities as well for example through levy's and charges of use of natural resources but also transport fees and fees for water abstraction. Fees that are already collected can be remitted to the LVETF as a source of finance;
- c) The principal of the user and polluter pays that is embedded in the ENRM protocol of the EAC should be adopted. The environment management agencies of the member states should set environmental standards for example the maximum residue levels (MRL) for discharge in the lake and those companies that exceed the set MRL, will be made to pay for polluting;
- d) Levies and royalties be charged on users and a percentage of the collections goes into the trust fund another fraction to the environment agencies of the member states to enable monitoring and regulatory work;
- e) To promote the application of PES systems in the lake basin, the LVBC should articulate the key ecosystem services provided by the basin and illustrate their links to economic development. This can be used for much needed policy reforms at both national and regional levels, fund raising and to the international community;
- f) Experiences elsewhere in the world has shown that techniques that facilitate natural forest landscape restoration processes can be quite cost effective and warrant adoption in the basin, compared to artificial system of regeneration or enhancement of vegetation cover and carbon stocks;
- g) The LVETF should capitalize .on the fact that three East African Member States namely, Kenya, Uganda and Tanzania, have joined an international

REDD Process and do all subscribe to the concept of REDD+ which promotes both new carbon forests and the enhancement of carbon stocks in existing degraded forests and woodlands. Of importance is that LVBC take advantage of proposed institutional arrangements and national strategy options to promote the application of REDD on critical landscapes;

- h) Recognizing that fuelwood and charcoal are key drivers of degradation and deforestation, the use of Programmatic CDM to promote charcoal making and charcoal use efficiency techniques is a legitimate way of reducing pressure on forest cover and claiming carbon credits from both the regulated and voluntary carbon markets;
- i) The wetlands in the basin and the importance of Uganda in this regard, warrants their deliberate management and packaging for purposes of raising funds from carbon markets and conserving biodiversity as well;
- j) For all the REDD projects, the LVBC should invest in technologies and people to assess existing carbon stocks and set baselines against which enhancement of carbon stocks can then be credited;
- k) The payments for environmental services need not be in cash. For instance a government can agree with a landowning community to forgo certain uses or perform certain agreed interventions in exchange for agreed public or community services (school, road, market support, equipment for value added processing). The international community can also offer incentives to promote the local stewardship of such forested ecosystems for the national and global good; and
- l) LVBC/ EAC to encourage all Partner States to have in place all necessary legal and instructional frameworks for establishing and operationalisation of PES/MES.

4.6 CONCLUSION: ANALYSIS OF PROSPECTIVE FUNDING SOURCES AND MECHANISMS FOR FINANCING FOR THE LVETF

It has been observed that in terms of short term funding for the set up and operations of the LVETF, development partners would be willing to consider financing the LVETF. The contribution modalities will be decided on which option is selected. In option one; the decision will be made by Steering Committee.

The approach to set up the LVETF as a full endowment fund is not feasible. A smaller endowment for covering the operational costs of the LVETF would be a good entry point. If the LVETF is well set up the GEF, FFEM and KfW are potential donors for this. The LVETF would most likely receive funds from many mixed sources.

Also, in order to receive funding from new donors like foundations and the private sector, clarity of focus and efficiency and effectiveness of the fund is crucial. And, currently the capacity to unlock these sources of funding does not exist in the LVBC, the EAC structure or the larger EF community in Africa. Capacities for this will need to be built in the LVETF. One of the interviewees noted that it would be an idea to organise lotteries to fundraise for the environment in LVB.

It is proposed that for ensuring medium to long term sustainable source of funding markets for ecosystem or environmental services markets need to be unlocked. In order to let these funds materialise, investment in capacities, policies and institutions is strongly needed. The LVETF might provide the institution to harbour these capacities at the regional level.

It is proposed that a fundraising strategy be put in place. This strategy can have three components: firstly, to generate short term financing for the LVETF set up from Partner States and development partners funding and gather the capitalise the operation endowment fund; secondly, to use part of this funding to enhance the capacity for generating medium term funding from private sector and foundations,

and thirdly, to finance the capacity, policy and institutional needs in the region to generate longer term sustainable finance from global and local ecosystem and environmental service markets, levy and licensing.

Going back to the different types of Environmental Funds that have been discussed; it can be broadly concluded that the LVETF will be most likely become a fund that is of the mixed type. It will have a small endowment fund for its operations. Then it will contain a sinking fund where various donors and contributors provide financing to a basket. The basket will most likely not be invested but spent annually on environmental activities and the operations of the LVETF. The sinking fund will most likely be combined with a revolving fund. The revolving fund will be financed from brokerage and service provision in the field of payments for environmental services. Revenues will most likely be generated from PES schemes at the regional and transboundary scales and service provision and coordination of global environmental markets like the REDD+. Another source of income could be fees on fisheries (commercial and recreational), on navigation routes, from electricity revenues, etc. However in light of the low success up to now of the LV Fishery levy Trust Fund it is questionable levies or other type of fees are a feasible of revenue for the LVETF in the short run. A challenge will be the agreement of Partner States to charge the fees and transfer these to the LVETF for financing environmental management activities.

Chapter 5. LEGAL AND INSTITUTIONAL FRAMEWORKS FOR THE LVETF

5.1 INTRODUCTION

In order to enhance our understanding of what it takes to establish a credible trust fund, it is crucial to assess existing legal frameworks within which a trust can be registered and be protected under the prevailing laws of any given country. This chapter has therefore analysed legislation from all the Partner States in the LVBC, with a view to understanding and gauging their suitability for the establishment of such funds. In the process, it also explains the key characteristics of trust funds, various governance structures that can be established and also gives indications as to their feasibility within the basin countries or Partner States. This is followed by the next chapter which explains in greater detail, the legal options under which a LVETF can be established, various institutional arrangements and their attendant governance structures to start the chapter a few relevant definitions are provided.

5.2 LEGAL FRAMEWORKS FOR ESTABLISHING TRUST FUNDS IN MEMBER STATES

As indicated in the introduction, there are two options for the legal arrangement to establish the LV ETF. The first option is to employ the Trustee and Trust Incorporation Acts of EAC Partner States. Kenya, Uganda⁶⁷ or Tanzania⁶⁸ have legislation on Trustees and trustees incorporation in place. The Acts associated with establishing trusts are very similar in Kenya, Tanzania and Uganda as they are all founded on the Commonwealth legislative system. Examples of the use of the trustee incorporation legislation in

67 http://www.ulii.org/ug/legis/consol_act/tia1939294/

68 <http://www.rita.go.tz/laws/trustees%20act.pdf>

Tanzania and Uganda for setting up Environmental Funds are the Eastern Arc Mountains Endowment Fund and the Bwindi Mgahinga Conservation Trust respectively. The legislation for trusts is currently under development in Rwanda⁶⁹ as part of the Rwanda vision 2020. This law will be harmonised with the trust legislation in other EAC member states⁷⁰. For Burundi trust related legislation has not been encountered. As a result this report restricts the legal review to the existing Trustee legislation in Kenya, Tanzania and Uganda.

In terms of legal requirements, report explored best practices elsewhere in the world. In particular the Global Environment Facility (GEF) that conducted an evaluation of the legal frameworks for Environment Trust Funds (ETFs). The GEF's Evaluation of ETFs states that in order to establish a ETF, there should be a legal framework in the country that permits establishing a Trust Fund or a foundation that can operate as a trust. In the GEF's Evaluation, the legal framework is described as a basic fabric of legal and financial practices and institutions in the country that people have confidence in.

5.2.1 REVIEW OF TRUST RELATED LEGISLATION IN KENYA, TANZANIA AND UGANDA

In reviewing the Trustee legislation, the checklist produced by the GEF Evaluation with focus on specific requirements for an effective Trust Fund was used. Following these requirements, consultants reviewed if the trustee legislation under analysis would impose burdensome legal requirements or restrictions that might not be conducive to the LVETF trust funds. These specific requirements are:

- a) The minimum or maximum number of directors on their governing boards;

69 <http://in2eastfrica.net/trusteeship-law-in-the-pipeline/>

70 <http://www.parliament.gov.rw/re/images/PDFs/explanatory%20draft%20law%20relating%20to%20trust%20and%20trustees%20in%20rwanda%20.explanatory%20notesx.pdf>

- b) The citizenship of members of their board of directors;
- c) Voting requirements;
- d) Powers, duties and qualifications of the organization's board members and officers;
- e) The need to obtain government approvals for decisions by the board (other than for the organization's dissolution and liquidation);
- f) Restrictions on the permissible objectives and activities of charitable organizations (except for certain restrictions on political and commercial activities of non-profit organizations);
- g) The permissible sources of funds for the organization;
- h) Maintaining the organization's accounts in foreign currencies and local currencies; or
- i) The types of investments of the organization's endowment which are permissible or impermissible (other than the general requirement that such investments must be prudent); and
- j) Tax exemptions in the region

Following the above ten requirements, we have reviewed five acts from three countries, Kenya, Uganda and Tanzania. The Acts are:

- a) the Trustee Act Chapter 167, Laws of Kenya and Perpetual Succession Act, Chapter 164, Laws of Kenya;
- b) the Trustee Act Chapter 164, Laws of Uganda and the Trustee Incorporation Act, Chapter 165, Laws of Uganda; and

- c) the Trustee Incorporation Act, Chapter 318, Laws of Tanzania⁷¹.

5.2.2 GENERAL OBSERVATION ON TRUSTEE LEGISLATION IN KENYA AND UGANDA

The Trustee Acts in Kenya and Uganda are elaborate in terms of clearly specifying the legal framework. The legislation has clear definitions and clearly provides for Trust Funds such as the proposed LV ETF as the Acts clearly state in their preliminary first articles: “In this Act, except where the context otherwise requires”

The LVBC can legally argue that the context, in this case the EAC Treaty and the Protocol for the Lake Victoria Basin, provides an exception “where the context otherwise requires”. The outcomes of the legal review of the five acts are presented per requirement below:

a) Number of trustees

The Ugandan and Kenyan Trustee legislations restrict the number of trustees in the case the Trust is involved in dispositions and settlements of land to four trustees. Both Trustee Acts do not impose any restrictions on the number of trustees when the land is vested in trustees for charitable or ecclesiastical purposes or where the net proceeds of the sale of the land is held for such purposes. Also, the Kenyan Perpetual Succession Act as well as the Trustee Incorporation Acts from Tanzania and Uganda do not impose any restrictions on the number of trustees that can be incorporated for charitable purposes. The LVETF with its focus on the environment of LVB can be defined as a charity and thus no restriction on the number of trustees seems to apply in all Acts reviewed.

b) Citizenship and eligibility of trustees

71 The consultant was unable to obtain the Tanzanian Trustee Act. We did obtain the legal texts of the Kenyan and Ugandan Trustee Acts, these texts are very similar, as the Tanzanian legislation is also based on the Commonwealth system we assume that the Tanzanian Trustee Act is similar as well.

The Tanzanian Trustees Incorporation Act requires at least two of the trustees to be resident in Tanzania. For Kenya, the Trustees Perpetual Succession Act as well as the Trustee Act do not specifically note the requirement that trustees are Kenyan residents however several articles point to the need to be resident in Kenya. For example, Cap. 167, Article 26, points to delegation of power to any person if the trustee remains out of Kenya for over a month. The same applies to the Ugandan Trustee Act, Cap 164, articles 25 and 35. So while not formally stated in the Ugandan and Kenyan Acts, other articles imply residency of appointed Trustees. None of the acts specifically state the required citizenship of trustees.

c) Voting requirements

The trustee acts in Kenya, Tanzania and Uganda do not specify voting requirements and procedures for trustees to act jointly. The detailed requirements for voting and quorum have to be defined in the trust deed that appoints trustees and specifies the governance procedures and operations of the trust fund⁷².

d) Powers, duties and qualifications of the organization's board members and officers;

The legislation in Kenya, Tanzania and Uganda allows only people of good reputation to be eligible to be a trustee. Anybody who is convicted of crime, fraud, dishonesty or is bankrupt is not eligible. For the LVETF, this requires a process of due diligence on the part of the organisation appointing the trustees. None of the acts specify any further qualifications of trustees. The Kenyan and Ugandan and Tanzanian Acts clearly set out the powers, duties and liabilities of the trustees that govern the trust. None of these provide an inhibition to the operation of the LVETF.

e) The need to obtain government approvals for decisions by the board (other than for the organization's dissolution and liquidation)

72 As an example of a trust deed, the trust deed for the Wildlands Conservation Trust can be consulted on the internet: www.wildlands.co.za/WCT_Trust_deed_Sep08.pdf

None of the Acts in Kenya, Tanzania and Uganda require government approval for decisions by the board of trustees of any incorporated trust. If wished so by the EAC Partner States, the trust deed can specify the need for government vetting of vision and strategies for the trust fund or specify any other mechanisms for that.

- f) Restrictions on the permissible objectives and activities of charitable organizations (except for certain restrictions on political and commercial activities of non-profit organizations)

The Ugandan Trustee incorporation act specifies the broad objective of incorporated trustees in its Article 1: “Trustees or a trustee may be appointed by anybody or association of persons established *for any religious, educational, literary, scientific, social or charitable purpose*, and such trustees or trustee may apply, in the manner hereafter mentioned, to the Minister for a certificate of registration of the trustees or trustee of such body or association of persons as a corporate body.”

The Kenyan Perpetual Succession Act specifies in its Article 3: “Trustees who have been appointed by anybody or association of persons established *for any religious, educational, literary, scientific, social, athletic or charitable purpose*, or who have constituted themselves for any such purpose, or the trustees of a pension fund may apply to the Minister in the manner provided in this Act for a certificate of incorporation of the trustees as a corporate body.”

The Tanzanian Trustee Incorporation Act specifies in its Article 2: “A trustee or trustees appointed by a body or association of persons bound together by custom, religion, kinship or nationality, or established for any religious, educational, literary, scientific, social or charitable purpose, and any person or persons holding any property on trust *for any religious, educational, literary, scientific, social or charitable purpose*, may apply to the Administrator-General for incorporation as a body corporate.

The Trustee Incorporation Acts in all three countries fully enable the incorporation of a trust fund with a mission to finance a social, scientific and charitable cause such as the improved environmental management of Lake Victoria Basin.

- g) The permissible sources of funds for the organization;

The Trustee incorporation acts in all three countries do not specify any non-permissible source of funds for incorporated trust funds. The Kenyan Perpetual Succession Act does not specify permissible funding beyond the statement in Article 12: "...every donation, gift and disposition of movable or immovable property, or any interest therein ...". Similarly, the Ugandan Trustee Incorporation Act does not specify the sources of funding permissible beyond the statement in Article 10: "every donation, gift and disposition of land, or any interest therein,..." And the Tanzanian Trustee Incorporation Act states the same in Article 10: "every donation, gift and disposition of land, or any interest therein".

- h) Maintaining the organization's accounts in foreign currencies and local currencies

None of the Acts reviewed impose and restrictions on maintaining the organisation's accounts in foreign and local currencies.

- i) The types of investments of the organization's endowment which are permissible or impermissible

Whole parts of the Trustee Acts of Kenya and Uganda are dedicated to investment of Trust Funds. Although the articles concerned need to be updated, they provide latitude for investment. As specified in the Kenyan Trustee Act part 2 on investment article 4 (1): "A trustee may invest any trust funds in his hands, whether at the time in a state of investment or not, in any securities in which trustees in are for the time being authorized by the Capital Markets Authority of to invest trust funds, in any securities the interest on which is for the time being guaranteed by the Government of Kenya, or in any public debentures issued under the authority of and guaranteed by any Act, in any security given by a city or municipal council established under the provisions of the Local Government Act which the Minister has, by notice in the Gazette, declared to be a trustee

security for the purposes of this Act, in any security, being a security the price of which is quoted on a recognized stock exchange in Kenya, issued by a company formed and registered under the Companies Act and authorised to trade in the Stock Exchange. The Trustee in the purchase of immoveable property in Kenya held for an estate in fee simple or for a term of years”.

According to the Ugandan Trustee Act Part II, article 3, a trustee may invest “in any securities in which trustees in England are for the time being authorised by the law of England to invest trust funds; in any securities the interest on which is guaranteed by the Government of Uganda or of Kenya or of Tanzania; in any public debentures issued under the authority of or guaranteed by any Act of Uganda or of Kenya or of Tanzania; in any stock or securities issued in respect of any loan raised by the Government of Uganda or of Kenya or of Tanzania; in immovable property in Uganda held for a freehold or mailo estate in respect of which a certificate of title under the Registration of Titles Act has been issued or held on a leasehold estate for a term of years of which not less than thirty years is unexpired and which is not subject to a rent exceeding 5 percent of the unimproved value thereof or to any condition of reentry except for nonpayment of rent.”

The Tanzanian and Ugandan Trustee Incorporation Acts and the Kenyan Perpetual Succession Act do not specify any restrictions on investments made by incorporated trustees.

So while the Kenyan trustee act limits the investments that are authorised by the Government of Kenya or securities that are guaranteed by the Parliament of the United Kingdom, the Ugandan Act limits the investment to Kenya, Uganda and Tanzania. And, the trustee incorporation and perpetual succession Acts do not provide any direction on the types of investments that an incorporated trust fund invests in. Overall, the risk level and types of investments that LVETF is permitted to invest in should be defined in the Trust deed. This can be negotiated in the process of trust deed development.

j) Tax exemptions in the region

The tax legislation for not for profits and charities is not arranged for by one piece of legislation in the three countries. Tax exemption for not-for-profits, charities and NGOs is common in the EAC region. In order to arrange for tax exemption, an application needs to be made to the relevant Ministry of Finance prior to establishing the organisation. And, as the EAC and subsidiary LVBC is tax exempt, it is expected that the LVETF that originates from the EAC will receive a positive reply on its application for tax exemption in all three countries. In the case that the LVETF is housed within the EAC, it will inherit tax exemption from EAC.

Based on the review above the report concludes as follows:

- i. that the Trustee legislation in Uganda and Kenya is very similar and is conducive to establishing a trust fund like the LVETF. The only restriction imposed by the Trustee Acts of both countries is on the type of investments that the LVETF is allowed to do. It seems that the part on investment in both Acts is outdated and needs updating.
- ii. that the Trustee Incorporation Acts in Tanzania and Uganda as well as the Perpetual Succession Act in Kenya provide no inhibition for establishing an incorporated Environmental Trust Fund in any of the three countries. While all acts seem to assume residence-ship of the trustees, only the Tanzanian Act specifies this as a requirement for up to two of the trustees to be resident in Tanzania. The acts are specific to the powers, duties and liabilities of trustees. The acts do not prescribe and are thus flexible in the mechanisms and procedures by which a board of trustees operates. These mechanisms and procedures need to be fully defined and described in the Trust Deed of the Trust Fund. As mentioned earlier the Trust Deed specifies the duties and powers of the institution vested with the power to administer the Trust Fund, legal referred to as Trustees. Information from other trust funds show that the writing the Trust Deed is a critical negotiation process between the founders of the Trust Fund. The Trust deed sets the purpose of the Trust Fund, the alignment with government policies

and strategies as well as the representation of the stakeholders and the division of powers in the Board of Trustees. These negotiations should result in clarifying the role of the different government and private stakeholders in the Board.

- iii. That on the basis of the legal review on the ten requirements above, the conclusion is that the trustee and trustee incorporation legislation in Kenya, Uganda and Tanzania is conducive to establishing an incorporated Lake Environmental Trust Fund in any of the three countries. The Trustee legislation in all three countries is very similar. Thus there is no specific preference for any of the three countries for establishing the LVETF from a legal point of view.

5.2.3. LEGAL FRAMEWORK FOR ESTABLISHING A TRUST FUND UNDER THE EAC TREATY AND/OR LVBC PROTOCOL

An alternative to establishing the LVETF as an incorporated Trust Fund under Tanzanian, Ugandan, and Kenyan or even beyond EAC country legislation is to employ the East Africa Community policy and legal framework. The LVETF could be established in a way similar to the establishment of the EAC Climate Change Fund (EACCCF).

The EACCCF was established by the Council of Ministers at its 20th meeting (EAC CM 20/Decision 30). The Terms of Reference (TOR) for the development of modalities for the establishment and operation of the EAC Climate Change Fund were approved by the 21st Extra-Ordinary Council Meeting held on 12th May 2010 (EAC/EX/CM 21/Decision 16). The Council further directed the Secretariat to work with a team of experts from Partner States to develop the modalities to establish and launch the operation of the Fund by end of year 2010 (EAC/EX/CM 21/Directive 09)⁷³.

The draft operational modalities of the EACCCF further specify the legal and institutional framework. The EACCCF is proposed to be established under an existing department of

⁷³ EAC, August 2011, Operational Modalities for the EAC Climate Change Fund – DRAFT

the EAC, the Department of Environment and Natural Resources. The governance of the fund is according to EAC rules and regulations including the financial rules and regulations. The Fund is proposed to have a Steering Committee (SC) that is charged with the overall management of the Fund's activities. The SC has equal member state representation (three each) and representatives (two) from EAC organs and institutions. The SC will have a Terms of Reference that is approved by the Council. Also terms of committee members and renewal mechanisms have been described. Finally donors can be invited to the Steering committee as observers. While the EACCCF is started up as being under a department of the EAC it may, depending on the growth and turnover of the Fund, evolve with time into an autonomous entity, as an institution of the EAC as governed by the EAC Treaty.

Based on the process as well as the legal framework of establishing the EACCCF, the LVETF could be established in a similar way. The difference would be that the LVETF falls within the remit of an EAC institution that is governed by its own protocol. The LVETF could be established by decision of the sectoral council under the Protocol for the sustainable development of Lake Victoria Basin, following the approval of the Council of Ministers of the EAC. As being established by the Protocol, the LVETF inherits all rules and regulations of the protocol. The protocol has no provisions for the LVETF to become a separate institution. If any evolution of the LVETF is envisaged, the LVETF should thus be established by decision of the Council of Ministers under the EAC treaty in a similar way to the EACCCF. Operationally, the LVETF could still be placed under a department of the LVBC secretariat, and if circumstances so dictate, become a separate EAC institution. *In justifying the creation of the LVETF in addition existing funds such as the EACCCF and others, it is important to note that a trust fund in which part of the funds are invested as capital and other portions of it treated as sinking funds to be disbursed has more appeal to donors and as long as the fiduciary standards of the fund and its general reputation as supporting sustainable development in an economic growth zone and a growing population, a trust fund is more likely to be trusted by a lot more donors than a purely sinking fund. A trust fund if created in the public interest could be seen more*

favorably as a more sustainable form of financing to fill the gaps left by regular public financing, particularly on regional matters.

The governance and management of the LVETF would be automatically in line with EAC rules and regulations and follow a similar approach as the EACCCF. The LVETF would have a Steering Committee with equal representation of the Partner States, relevant other EAC organs and institutions as well as provide observer status to development partners.

The EACCCF draft operational modalities do not specify the way in which non-government stakeholders would be involved in the Fund. For the LVETF it would be good to consider how the views of civil society, private sector and other interest groups in the environmental sector can be brought into the proceedings of the Steering Committee as governing body of the LVETF. An option could be to have stakeholder engagement in the form of subcommittees or a forum. Article 127 of the EAC treaty has provisions for the legal framework for participation of stakeholders from civil society, private sector and other interest groups in activities of the EAC⁷⁴. This is also an area that is very much under development within the EAC governance and institutional structures. Recently progress has been made as communicated by the EAC website⁷⁵: “After a series of meetings convened by the EAC Secretariat to develop a framework for dialogue, the agreed structure envisages a forum convened annually by the Secretary General as provided by the Treaty and to be organized collaboratively based on an agenda agreed upon by the private sector, civil society and the EAC Secretariat.” While the annual forum that is spoken about would take place at the highest governance levels of the EAC, specific input related to the environmental management of LVB from civil society, private sector and other interest groups into the strategies and activities of the LVETF would be advisable. As the momentum for developing mechanisms for stakeholder engagement at the higher levels is there, it is very timely to explore how the proposed annual forum

74 EAC (2006) *Treaty for the establishment of the East African Community (as amended on 14th December 2006 and 20th August 2007)*

75 <http://www.eac.int/about-eac/eacnews/849-cs-develop-framework-to-engage-eac.html>

might have subsidiary sector specific stakeholder sub-forums for participation of non-government stakeholders in sector and geographically specific activities of the EAC. One of such stakeholder sub-forums could focus on the environmental management of Lake Victoria Basin and work with the LVETF to ensure participation of stakeholders in its governance and operation. During the process of developing the operational modalities of the LVETF, such a stakeholder sub forum can be elaborated through the development of its terms of reference.

5.2.4. LEGAL FRAMEWORK FOR ESTABLISHING A TRUST FUND OUTSIDE THE EAC

As a note to establishing trust funds under EAC member state legislation or under the provisions of the EAC treaty, the LVETF can theoretically be established in states outside the EAC.

For example, the Foundation Tri-National de la Sangha has been established and incorporated by the UK Charity Commission in the United Kingdom⁷⁶. The TNS Foundation is an independent conservation trust fund created for the protection and management of a trans- boundary forest complex called the Sangha Tri-National which covers a total surface area of some 28,000 km², including the three contiguous National Parks of Lobeke in Cameroon, Dzanga-Ndoki in the Central African Republic and Nouabale-Ndoki in Congo (Brazzaville), and their buffer zones. The objective of the TNS Foundation is to contribute to the specific priority financial needs for managing each of the three TNS parks, both in terms of conservation and in terms of sustainable management of natural resources in the peripheral zones⁷⁷. Similarly Trust Funds can be established under Foundation legislation in non-commonwealth countries like the Netherlands and Switzerland.

76 <http://www.charity-commission.gov.uk/>

14. 77 E AFC (2010) *Joining Forces: The Dakar Meeting of African Environmental Funds Organized by the CFA African Environmental Funds Committee September 2010*, <http://conservationfinance.org/wg.php?pg=4>

Reasons for establishing a Trust Fund in a country outside the region can be the favourable legislation in the Western World because of high standards of enforcement and strong tax exemption systems for organisations with societal benefits; and also, in the case of regional trust funds like the TNS or the LVETF, incorporation in a country outside the region might better provide a better guarantee for the independent and unbiased nature of the organisation to the participating countries.

The legal framework for establishing trust funds in the UK is very similar to that in Kenya, Tanzania, Uganda; thanks to the e Commonwealth foundation of the legislations. Thus for an understanding of the Trustee legislation in the UK, please refer to the review of Trustee legislation in Eastern Africa above. *The Commonwealth Legislative Structure does not disadvantage Rwanda and Burundi, who are not members of the Commonwealth. This is because all that is needed is for a trust fund to be legally registered in one of the countries in the EAC with an existing legislation and all the members can benefit from its disbursements. The incentive is that once they are having a share of the benefits of a trust fund, they can develop their own legislation or simply use existing models and have their parliaments, debate and ratify it at their own time.*

Foundation legislation varies country by country but as an example, the legislation in the Netherlands is used to provide for the set up of not for profit tax exempt charities⁷⁸⁷⁹. In the Netherlands, there are two types of foundations that can be set up. The first type is that with a board that comprises of members that govern the foundation, this is a simple form for managing a foundation. The Board members generally comprise a chair, secretary and treasurer and board members that do not have portfolio but it delegates powers to the director of the foundation who is the day to day manager of the foundation's affairs. The second type of foundation has a board comprising of directors that are responsible for managing the organization, but above it is a Supervisory Council

78 <http://www.legal500.com/developments/5049>

79 Personal experience with setting up and managing the Water Footprint Network Foundation under Dutch legislation

that has a chair and a number of members as provided for by the statutes or articles of association. The difference between the two types of foundations is that the second type resembles more the Commonwealth system of governance of institutions. The second model of a foundation has a stronger legal basis to stimulate good governance because of a clear division of governing power between the Council and the board. The Council sets the overall direction of the institution and monitors the board in its success of implementing the mandate of the institution. Generally, the only legal instrument that the Supervisory Council has, is appointing and discharging directors of the board. The board of directors has a mandate for the day to day operations in light of the purpose of the foundation and because the board is appointed under company law, it is legally held accountable for the administration and management of the institution. Specific requirements for the division of powers can be set in the process of writing the Articles of Association. The articles of Association are similar to the Trust Deed for an incorporated trust fund. If the LVETF would like to employ foundation legislation as its legal framework, it best does so through the second type of foundation.

In light of the legal review, the report concludes that LVETF can be set up as a non-EAC trust fund using Western Trustee and Foundation legislation. The reasons for doing so would be to use strongly enforced Western legislation as a foundation for the LVETF as well as to stress the independent and unbiased nature of the LVETF in light of specific partner state interests.

5.3 INSTITUTIONAL ARRANGEMENT FOR THE LV ETF

As already discussed legally speaking there are three options to establish the Lake Victoria Environmental Trust Fund. One, the legal framework is the Kenyan, Ugandan or Tanzanian Trustee and Trustee incorporation legislation. Two, the legal framework is the existing EAC treaty and the LVB Protocol. Three, the legal framework is a non-partner state country Trust Fund or Foundation Incorporation legislation, for example in the UK and other Western Countries. Here the report does not propose a specific preference for

any institutional arrangement. Instead it is important to clarify what the institutional frameworks look like for the different legal frameworks employed. It should be noted that the legal framework for trust funds in Kenya, Tanzania, Uganda and the United Kingdom is very similar because of the Commonwealth foundation of the legislation. For this reason the report has grouped the Commonwealth Trust Fund legal frameworks in one institutional framework. There are therefore three legal frameworks for which the institutional framework of the LVETF can be described; i). a commonwealth trust fund institutional framework, ii). an EAC institutional framework and iii) a non-EAC state foundation institutional framework.

5.3.1 EAC INSTITUTIONAL FRAMEWORKS

Founded on the EAC treaty and LVBC protocol there are different options in which the LVETF can be institutionally organised. Firstly, the LVETF if decided so by the Council, could become a new EAC institution under the EAC treaty⁸⁰. An example of this is the East African Community Development Fund that is currently under development. This is the way in which the EACCCF is proposed. This institutional framework is presented in Figure 9 below.

80 TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY (as amended on 14th December 2006 and 20th August 2007)

LVETF as EAC institution

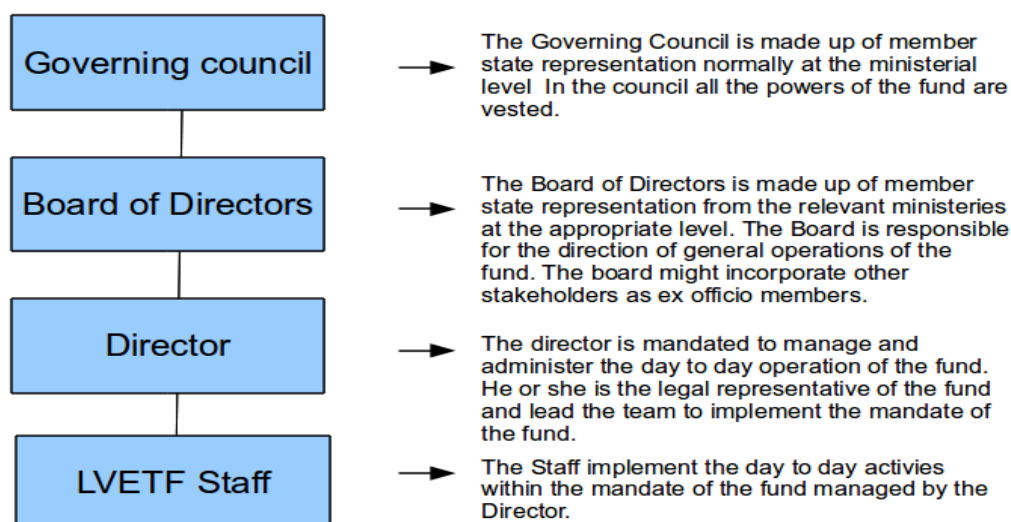


FIGURE 9: INSTITUTIONAL FRAMEWORK OF LVETF AS A NEW EAC INSTITUTION

The political probability of LVETF becoming a separate institution under the EAC treaty might be limited at this stage going by the approach that is taken for the EACCCF and the information gathered from EAC and LVBC secretariat staff. As mentioned the EACCCF is proposed to be institutionally housed within the environment and natural resources department of the EAC secretariat⁸¹. The EACCCF operational modalities do keep the door open for the EACCCF to evolve into a separate EAC institution based on development of its growth and profile. Information from interviews and communications with EAC and LVBC staff support a similar institutional framework for the LVETF. Similar to the EACCCF, the modalities could present the opportunity of growing the

LVETF into a separate EAC institution if circumstances so demand. The institutional framework of LVETF being institutionally housed within an existing EAC institution is presented as a second option in figure 10 below.

1. 81 EAC (2011) Draft Operational Modalities for the EAC Climate Change Fund, Arusha, Tanzania.

LVETF within an EAC institution

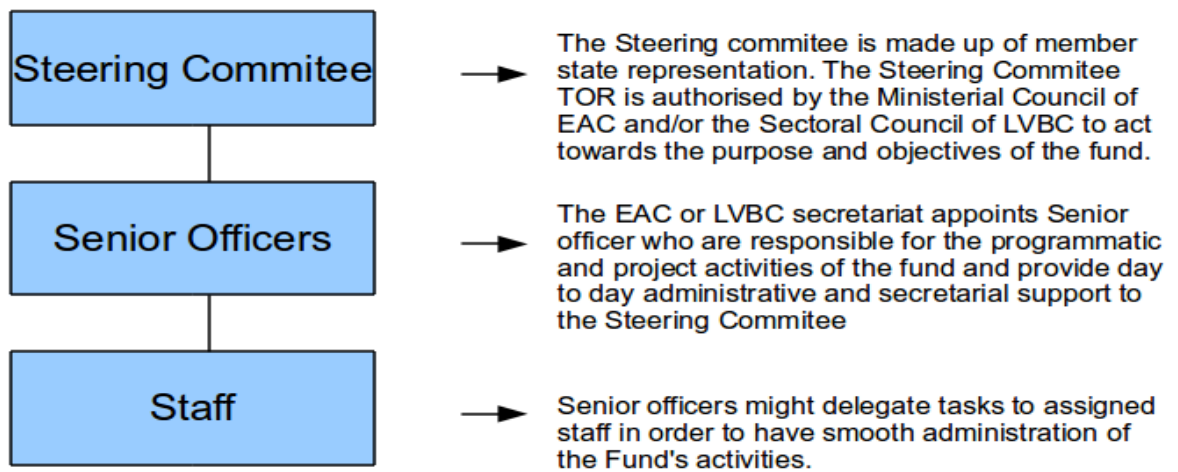


FIGURE 10: INSTITUTIONAL FRAMEWORK OF LVETF EMBEDDED IN AN EXISTING EAC INSITUION

If the LVETF is proposed to become part of the EAC institutional framework, the question where the LVETF should be housed. While in terms of geographic and technical scope it makes sense to house the LVETF institutionally within the LVBC this is not a view held by everybody.

According to discussions with the EAC Senior staff there is a desire to place the LV ETF under the EAC Development Fund in an arrangement similar to that of the EACCCF although nothing of the sort is mentioned in the draft modalities of the EACCCF. A suggestion on this arrangement, the EAC Development Fund is designed to be the mother fund with several windows e.g. infrastructure window, health window, environment window. The windows will be other small funds but within the main EAC Development Fund. There could also be a window for the Lake Victoria Environmental Trust Fund. Similarly there is an initiative to develop a climate change fund which will be part of the EAC DF. LVETF can thus be a window within the larger EAC Development Fund, it will have its own manager who will be part of EAC DF management.

This perspective is not shared by everyone. Instead several respondents see the LVETF to be managed by the LVBC and its secretariat. Also there are diverging views on whether

the proposed Trust Fund should be a Lake Victoria Environmental Trust Fund or a Lake Victoria Basin Fund targeting environment but also a broader development agenda⁸². In line with the LV Protocol, the report recommends the use of a geographic scope of Lake Victoria Basin and advises the LVETF be focused on the environment. Not only, do well focused trust funds perform better⁸³, but the upcoming EAC DF will compete stronger with a more general LV Basin Fund as its scope for financing and fundraising is similar. This has to be avoided by start linking the establishment of LVETF to the EAC Development Fund and future Lake Victoria development funds objectives.

It is the opinion of the consulting team that the LVETF housed institutionally in that location where the LVETF has most synergies in terms of technical and fund raising. Assuming that the LVETF sector scope is the environment and geographic scope is the basin, it seems most logical that the fund will be housed within LVBC and its secretariat. The location within LVBC should be such that the opportunities for generating funds for and spending funds well on the environment of LVB are greatest. This requires further discussion by the LVBC Partner States.

5.3.2 COMMON WEALTH TRUST FUND INSTITUTIONAL FRAMEWORK

As discussed in the previous chapter, there are no legal inhibitions to establish the LVETF as a public private entity under Trustee legislation. This can either be done in Kenya, Tanzania and Uganda or outside the EAC in a country with a commonwealth legislative system. Figure 11 shows what the institutional framework looks like in terms of governance and management framework.

82 LVBC, Notes on the Inception Meeting, May 2011, Kisumu, Kenya

83 GEF (1998) *Evaluation of experience with Conservation Trust Funds*. Monitoring and Evaluation team. GEF secretariat

LVETF as trust fund under Commonwealth legislation

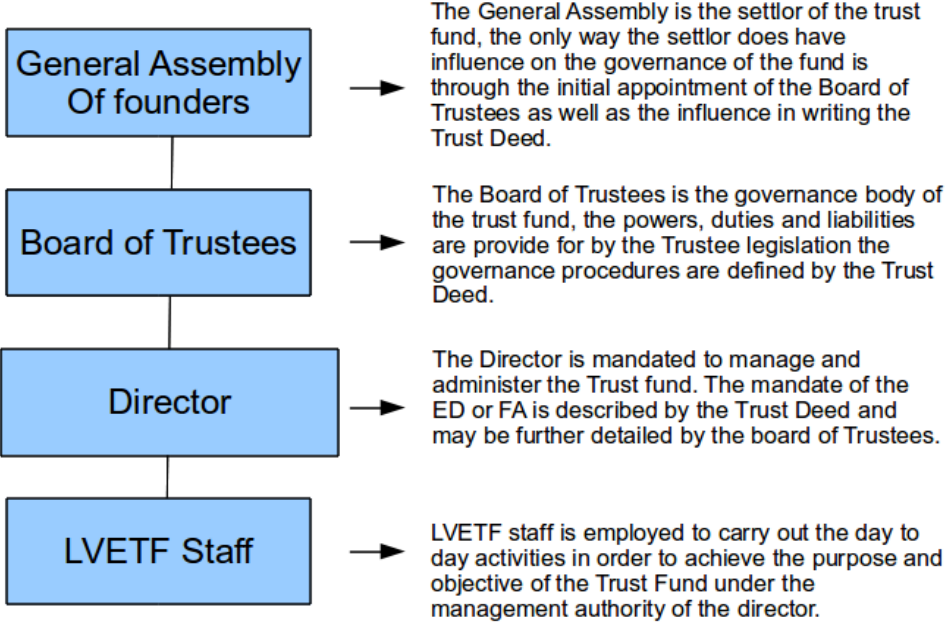


FIGURE 11: INSITUTIONAL FRAMEWORK OF LVETF AS A TRUST FUND UNDER COMMONWEALTH LEGISLATION

As seen in chapter two, there can be public-private entities with a general assembly that has the founders. In the case of the LVETF, the founders can be the EAC Partner States (but might include other stakeholders as well). The Founders write the Trust Deed and establish the trust fund. Below the general assembly there is board of trustees, The Board of Trustees is appointed by the General assembly of founders and is responsible for the governance of the Trust fund. The Board of Trustees responsibilities should be clearly specified either in the Trust Deed or in the bylaws of the Trust fund and/or its operations manual. The day to day leadership and management of the organisation rests with the Director who is mandated by the Board of Trustees to manage and administer to organisation in light of the purposes and provisions of the Trust Deed. To ensure alignment with EAC/LVBC policies and strategies, the Trust Deed should incorporate provisions and describe mechanisms to specifically address this.

The Board of Trustees commonly can have the following responsibilities:

- a) Oversee the strategic planning;
- b) approve of budgets and financial reports;
- c) oversee fundraising, marketing and communications;
- d) review of grant proposals and completed grant evaluations;
- e) review of the performance of the executive director; and
- f) Oversee the performance of the Fund investment managers.

Depending on the nature of the LVETF, the exact responsibilities of the Founders, Board of Trustees and Director can be debated and written down in the Trust Deed.

5.3.3 NON-EAC STATE FOUNDATION INSTITUTIONAL FRAMEWORK

If the LVETF will be established as a foundation in a non EAC partner state, the best fit legal foundation framework to use is one that is dividing the powers between a Supervisory Council and the Board of directors. This is the second type of foundation referred to in the legal review. In Figure 12 Below the institutional framework of the second type foundation is presented. The Founders who can be EAC Partner States (but might include other stakeholders as well) develop the Articles of Association and have the right to appoint the members Supervisory Council according to the procedures described in the Articles. The Supervisory Council is the governance body of the institution and has similar responsibilities as the Board of Trustees described earlier.

LVETF as non EAC state Foundation

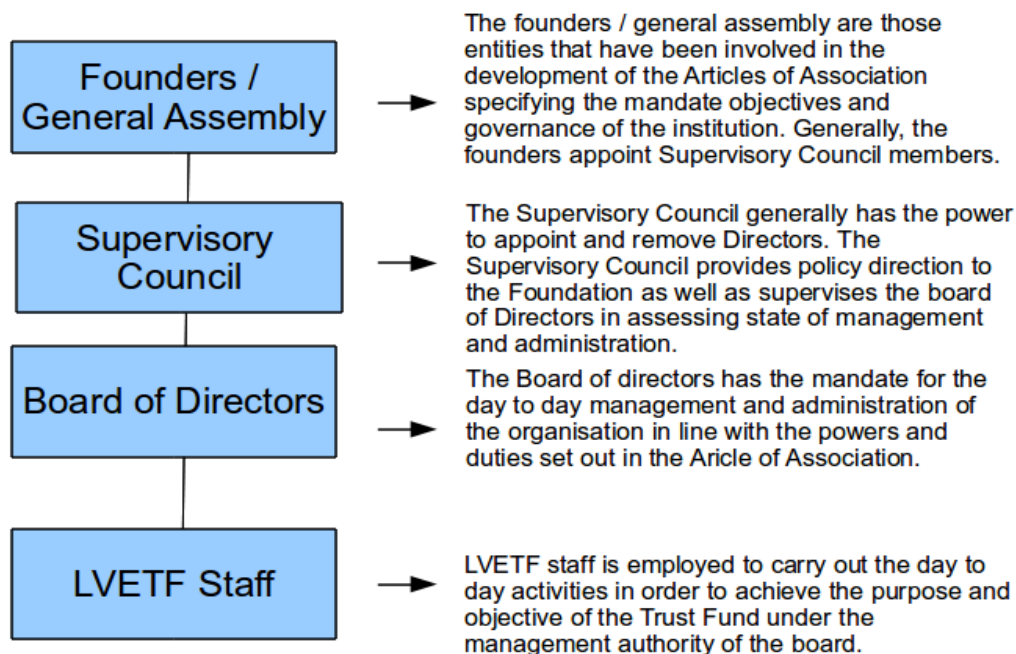


FIGURE 12: INSTITUTIONAL FRAMEWORK OF LVETF AS A NON EAC STATE FOUNDATION

The difference between the foundation institutional framework and the Trust Fund institutional framework is that the Board of Directors is located at the administrative level not at the governance level as the Board of Trustees of a common wealth trust fund. The Board of Directors can comprise of one or more directors. If the Board has one Director, this is the Executive Director. If the board consists of more directors, the Executive Director automatically is the chairman of the Board. Depending on the size and nature of the organisation the other directors on the board can have the following portfolios: Financial and Administration Director, Marketing and Communications Director, Human Resource Director, etc. The number and portfolio of directors can be specified in the Articles of Association. Because of the institutional set up with a Supervisory Council, the board of directors is more of an integral part of the administrative organisation. The alignment with LVBC and EAC policies and strategies

can be ensured through incorporation of provisions and procedures on this in the Articles of Association.

5.3.4 ADMINISTRATIVE ORGANISATION

As can be seen from the four institutional frameworks above, the administrative organisation below the Board of Trustees, Board of Directors or Steering Committee is similar in all institutional frameworks. Below is a brief description of the general nature of the administrative organisation of the LVETF. In terms of its administrative organisation, the Trust Fund will require the following positions:

a) Directors / Officers

The role of the Director / Executive Director or the Senior officers is to manage the daily affairs of the fund including oversight on all service providers, fundraising including developing the resource mobilisation strategy, record keeping, tracking performance by liaising closely with the investment manager, regular reporting to higher governance levels and producing regular financial statements of the Fund. The Director is also responsible for developing the Investment Policy Statement that will deliver on the mission of the Fund and contribute to its vision.

The Director in the case of a public private Trust Fund is recruited by the board of trustees. In the case of an EAC embedded trust fund, the administration can be part of the EAC institutional structure and the executive level is with the assigned senior officers of the EAC institution. In the case of a separate EAC institution like the EACDF, it has been proposed to outsource the administration to EADB under clear agreements. The draft policy framework for the EACDF states that the Director of the Fund will be appointed by the governing council.⁸⁴

2. ⁸⁴ EAC (2011) Draft policy Framework on the establishment of the East African Community Development fund, , Arusha, Tanzania.

The Director, executive Director or senior officers are supported by the following staff as part of the Fund's Secretariat:

- i. Program staff who bring a variety of skills including familiarity with the geographical areas where the trust fund works and professional knowledge of the thematic areas of concern to the Environmental Fund, such as biology, forestry, micro-enterprise development;
- ii. Financial staff often including an accountant to manage the budgets and accounts of the trust fund;
- iii. Fundraising staff;
- iv. Communications staff;
- v. Administrative staff, such as secretaries and assistants; and
- vi. Other support staff, such as a messenger, a driver, a building caretaker or guard and an office janitor.

Depending on the nature of the institutional framework applied, the staff will either be employed by a newly established institution or within an existing EAC institution.

5.3.5 ADDITIONAL INSTITUTIONAL CONSIDERATIONS

Independent of the legal and institutional nature of the LVETF there are three additional institutional considerations that the institutional framework will need to address. These are:

- i. Involvement of stakeholders in governance and operations:

The LVETF will operate in the EAC region with member states and development partners as well as many other stakeholders. Its governance and institution should reflect this. This means that in the governance and operations of the Fund apart from strong and

equal partner state representation there should be strong representation of non-government stakeholders. The CFA and GEF reviews noted that the most effective trust funds have a minority of government representation in their governance structure. This is also supported by one of the respondents who has experience in a government led, nationally operating Environmental Trust Fund. This however does not mean that this should be the case for the LVETF. The EAC political framework is strong and government minority in the governance of the LVETF might not be attainable or even usable. The LVETF should establish mechanisms for strong stakeholder engagement and participation to ensure that stakeholder views are incorporated in the governance and operations of the Fund. The stakeholder sub forum or committee that feeds into a board of trustees, directors or a steering committee might be an appropriated measure.

ii. Alignment with LVBC priorities and strategies

The LVBC is the institution and collaborative mechanism to further the sustainable development of the LVB. It is the institution where the strategies and policies are developed and agreed on, including the environmental ones. Whatever the legal and institutional setting of the LVETF, it should provide for alignment of the LVETF with the policies and strategies of the LVBC. This can be realised by incorporating appropriate provisions in the documentation underlying the establishment of the LVETF. Depending on the legal framework employed this documentation is either: A Policy Framework or Protocol that is brought before the EAC Council of ministers and/or the Sectoral Council of the LVBC; A Trust Deed for trust funds to be incorporated under partner state or non partner state legislation; or, Articles of association for a foundation established under Foundation law in for example the Netherlands or Switzerland,

iii. Alignment with EAC broad fund raising and financing activities

The LVETF potentially operates in the same fund raising and financing niches as the EAC Development Fund and the EAC Climate Change Fund. It needs to be clarified especially how duplication and coordination in fund raising efforts will be ensured. The best way to do this is to describe a mechanism for this in the documentation for the establishment of the LVETF. If the LVETF is established under the EAC, the mechanism

that could be applied is the Coordination Committee. If the LVETF is established as a public private entity in the region, alignment can be negotiated as part of its agreements with the EAC or the development of specific provisions in the Trust Deed or Articles of Association.

5.4 KEY PLAYERS AND SERVICE PROVIDERS FOR THE LVETF

The LVETF will be dependent on key players and service providers in and outside the region to perform its tasks. This section explains the main categories and elaborates the services that they provide to the LVETF.

a) Fund/Investment Asset Manager

Generally endowment funds have their investments managed by external and offshore professional investment managers to ensure return on investment. Investments are managed according to the investment policy of the EF. As there are many investment bankers around the world it is good to go by the experience of others. Once a small endowment for the operations of the fund is secured, the EAFC can be consulted on the steps to identify a good investment manager. Also the EF toolkit of the Conservation Finance Alliance has good documents with criteria to select an investment manager⁸⁵.

b) Custodian

The custodian is a specialized financial institution responsible for safeguarding institutions or individual's financial assets. Depending on the characteristics LVETF will need to identify a custodian that holds the funds. Within the EAC structure this could be the East Africa Development Bank. In the case of a public private entity, commercial parties can be sought in the Banking market. Standard Chartered Security Services etc, KCB Custodian, CFC Stanbic Custody, NIC Custody and Coop Trust Custody Services

85 <http://toolkit.conservationfinance.org/sites/default/files/documents/investment-management/asset-manager-selection-criteria-2005-mar-fund.docx>

c) Auditor

An annual audit will be a requirement for good corporate governance. The Director in consultation with the Board of Trustees / Supervisory Council will be responsible for appointing a credible auditor. This could be Deloitte & Touché, Price WaterHouse Coopers or KPMG or any other credible audit firm.

d) Corporate Governance and corporate social responsibility

Corporate governance is the set of processes, customs, policies, laws, and institutions affecting the way a corporation (or company) is directed, administered or controlled. Corporate governance also includes the relationships among the many stakeholders involved and the goals for which the corporation is governed. For the LVETF to have good corporate governance it needs to adhere to a set of values and instruments to provide transparency, accountability, responsibility and integrity in its operations to all stakeholders affected through communications and regular reporting⁸⁶.

Normally, corporate governance is set out in a policy. Corporate Social Responsibility policy functions are a built-in, self-regulating mechanism whereby business monitors and ensures its active compliance with the spirit of the law, ethical standards, and international norms. There are many specialised consultancy organisations that can help draft corporate governance and social responsibility policies and can review implementation of the policies. *In addition gender roles in the design and implementation of projects funded should be analyzed and any traditional inequalities should be corrected to ensure that, for example, discrimination based on gender is eliminated and that interventions understand and apply gender roles to maximize the gains from natural resource and environmental management.*

86 http://en.wikipedia.org/wiki/Corporate_governance

e) Technical experts in LVBC, member states and globally

The LVETF will not be able to capture all the technical capacities it needs in the field of environment to carry out its tasks. Therefore the LVETF will be dependent on collaboration with technical experts in the member states, the LVBC and globally. Access to global networks of expertise on environmental markets is crucial for example.

5.5 CAPACITY BUILDING REQUIREMENTS FOR IMPLEMENTATION OF THE LVTEF

The LVETF will need capacities to operate efficiently and effectively. Technically speaking these capacities depend on the nature of the Fund. Here it is assumed that the nature of the fund is that of a mixed fund with sinking funds from member state contributions, development partners, private sector and foundation financing as well as revolving income derived from environmental market approaches. The funds will generally not be invested apart from a reserve to sustain cash flow for operations.

Below the different categories of capacities that the LVETF will most likely need to have are mentioned. The information has been drawn from the environmental funds toolkit⁸⁷ and a selected number of environmental funds as well as our own experience in managing organisations with an environmental mission. The LVETF is in a somewhat specific situation as there are existing EAC institutions that have build up expertise in the various categories. As it is unknown what institutional shape the LVETF will take, the report added to the categories, the relevant EAC institutions that might provide the capacity for the LVETF.

a) Governance

- i. Strong environmental expertise on LVB (could be provided by member state Environment Ministry representation or LVBC expertise);

⁸⁷ [Http://toolkit.conservationfinance.org](http://toolkit.conservationfinance.org)

- ii. Strong financial expertise (could be represented by member state Finance Ministry representation or EADB);
- iii. Management skills to manage tasks and responsibilities between governing council or founders assembly and board of directors; and
- iv. Stakeholder involvement.

b) Overall leadership (Executive Director)

- i. Political sensitivity;
- ii. environmental protection and management;
- iii. strategy development and implementation in field of finance and environment);
- iv. Management skills;
- v. Communications; and
- vi. Stakeholder management.

c) Finance and administration

- i. Administrative systems (LVBC and other EADB);
- ii. Human resources (LVBC);
- iii. Budgeting (LVBC);
- iv. Operations manual; and
- v. Reserve investment (EADB or external investment bank).

d) Fund raising

- i. Member states (LVBC, EAC);
- ii. Development partner policies and rules (LVBC, EAC);

- iii. Private sector;
- iv. Foundations;
- v. local, regional and global environmental markets (Partner States and Mara River basin programme, MERECP); and
- vi. Fundraising policy and strategy.

e) Communications and public relations:

- i. marketing and profiling
- ii. transparency and accountability
- iii. use of new media, website, mobile technology
- iv. stakeholder engagement, policy and mechanisms

f) Project management and Grant making skills

- i. Project management skills (LVBC, EAC); and
- ii. Grant making policy.

g) Monitoring and Evaluation:

- i. Environmental projects and strategies (LVBC); and
- ii. Institutional capacity and operations.

h) Specific technical skills in environment:

- i. financing the through environment markets;
- ii. REDD+ (could be developed in conjunction with the CCF);
- iii. Watershed services markets;
- iv. Pollution levy's; and

- v. Natural resource use levy's

The majority of the capacities and skills above are general skills for managing and operating an organisation. While establishing the organisation, these capacities will need to be recruited into it and staff will have to be trained. Here it is assumed that the obvious finance, administration, management and programme management capacities will be taken care of as part of establishing the institution as well as the obvious technical expertise in environmental management. However there are three categories of skills that are very important and specific to the success of the LVETF.

5.5.1 CAPACITY BUILDING FOR FUNDRAISING SPECIFICALLY WITH THE PRIVATE SECTOR AND FOUNDATIONS AND IN GLOBAL AND LOCAL ENVIRONMENTAL MARKET

Assuming that the LVETF will have a strong focus on financing the environment through a number of fund raising and financing mechanisms, it is in these fields where strong capacity is required. Specifically capacity is needed on fund raising from the corporate and foundation sectors; also capacities to access funds from global forest carbon markets. This requires strong member state collaboration and would make the LVETF a node of expertise in this under the assumption that the EAC Climate Change Fund does not occupy this niche. Next to this, for the longer term sustainable financing, the LVETF will need to have expertise on developing and establishing markets for environmental services in the region.

5.5.2 CAPACITY BUILDING TO ENSURE STRONG STAKEHOLDER INVOLVEMENT

The second category that requires strong capacity building is that of stakeholder involvement and engagement. Dealing with many different stakeholders requires strong skills in being receptive to stakeholder views and positions, placing them in the context of the objectives of the LVETF and negotiation of directions and policies on the basis of that. Within the EAC political context this requires political sensitivity and strong diplomatic leadership as well as a strong ability to connect to other people and organisations.

5.5.3 CAPACITY BUILDING FOR EXTERNAL COMMUNICATIONS AND STRONG NETWORKING

In order to be successful as a resource mobiliser for the environment in LVB, strong communications and marketing of the institution is needed. The communications will facilitate the transparency and accountability of the LVETF. It will need to make good use of new media like social media and mobile phone technology. The LVETF can only be successful if it can position itself clearly, for example as THE fund raiser and financier for the environment in the LVB. Also, the Fund's communications should breathe transparency and accountability. This means that information on the funds operation and performance in terms of fund raising and financing environmental activities as well as the environmental outcomes in LVB should be readily available to all.

Chapter 6. OPTIONS FOR ESTABLISHING THE LVETF, RECOMMENDATIONS, NEXT STEPS AND GENERAL CONCLUSIONS

6.1 OPTIONS FOR ESTABLISHING THE LVETF

The previous chapters have set out the characteristics for Environmental Funds, presented a discussion on the objectives of the LVETF, provided an assessment of the current and prospective finance of the LVETF as well as the various legal and institutional frameworks that can be employed for the LVETF. This chapter combines the findings from the previous chapters through developing three options for establishing the LVETF. The options are described in brief and then analysed from legal/institutional/operational, financing and technical viewpoints in terms of the advantages/opportunities and disadvantages/risks associated with them. The analysis is not only informed by the previous chapters but also draws in the information that was collected from stakeholders during interviews.

In terms of financing the further development and start up the LVETF in any of the options, several development partners have mentioned their interest to provide development and start up funds for any of the options provided that the option chosen has sufficient political support from stakeholders and is in alignment with the EAC/LVBC priorities for the environment.

6.1.1 OPTION 1: LVETF NESTED IN AN EAC INSTITUTION

a) Institutional, legal and operational:

- i. Linkages between LVETF, National and Regional Trust Funds to avoid duplication and increase synergy*

In order to avoid duplication, the LVETF formulation, establishment and operation will be linked and coordinated with other National and Regional Trust fund. The LVETF is nested within an existing EAC institution and thus is subject to the rules, regulation and policies of the EAC legal framework. There are a number of EAC institutional candidates for housing the LVETF. The first option is to house the LVETF within the Lake Victoria Basin Commission. It seems institutionally logical to keep the financing for the environment of Lake Victoria together with the body that has the mandate for the environment in LVB. In this way, coordination is easy and duplication of effort is avoided. The second option could be to house the LVETF in the newly set up EAC Development Fund (EACDF). The EACDF will be managed by the EADB. If housed by the EACDF, the LVETF would become a window of this fund specifically focused on generating finance for the environment in LVB. Being part of the EACDF could enhance access to funds and administration and finance capacity. But, institutionally, the LVETF would be further away from the LVBC. To ensure coordination, strong and specific coordination mechanisms will need to be put in place. If not done properly, this could lead to duplication of effort and even competition in obtaining already scarce resources.

The LVETF would not be a separate institution under the EAC but it is managed within the existing institution as a department or sub department. Being part of an existing EAC institution binds it to its institutional, legal and operational processes. The LVETF department is focused on fundraising for the environment and provides funding to projects to reach the objectives of the SAP for the LVB. In a way, the LVETF is a strengthened resource mobilisation entity specifically for the environment in the LVB.

The governance of the LVETF resembles the governance the EAC Climate Change Fund (EACCCF) as described in its draft operational modalities. The LVETF will be guided by a steering committee with equal representation from Partner States and possibly development partners. In order to increase stakeholder participation in the LVETF, the steering committee might have a subcommittee that includes private sector, community and civil society under clearly drafted Terms of Reference (TORs). This subcommittee can be a sub forum of the recently proposed EAC Annual Stakeholder Forum. The day to day operation of the fund is in the hands of a Senior Officer assigned by the steering committee again under a clear TORs. The Senior Officer is responsible for the day to day operation of the fund under strict guidance from the Steering committee.

Decision making on allocation or how and to what percentage the LVETF can taken from countries and other environmental and natural resources funding sources that countries will be done within the Steering Committee but is finally subject to the LVBC/EAC framework of decision making. The ultimate decision making power rests with the member states. In whichever EAC institution the LVETF is housed, the necessary alignment and coordination with the LVBC mandate and strategies will need to be ensured by clear governance procedures in the operational modalities of the LVETF.

If established in this way, the LVETF resembles the European Commission LIFE+ Programme described in previous Chapters. The LVETF would not truly be a Trust Fund for the environment. Instead it is a financing instrument for the environment embedded in the existing legal and institutional framework of the EAC. The LIFE+ Regulation (EC) No 614/2007⁸⁸ gives an example how such a financing instrument for the environment is established in the European Commission. This regulation might provide insights for the establishment of the financing instrument for the environment in LVB.

88 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007R0614:EN:NOT>

ii. Advantages

The LVETF will through its operational modalities be directly and fully in line with the policies, strategies and legal requirements of EAC treaty and the Protocol for the sustainable development of Lake Victoria Basin. This guarantees the accountability to member states and to the LVBC mandate and strategies. Also, the alignment of the LVETF with the LVBC policies and strategies can be ensured through clear TORs of the Steering committee and Senior Officer. A positive outcome of engaging stakeholders in the LVETF through a subcommittee could be an increased stakeholder participation in EAC/LVBC activities. In turn, this leads to increased ownership by stakeholders for the EAC/LVBC mandate, and also to better information sharing between a broad range of stakeholders and the EAC/LVBC, potentially leading to stronger implementation of strategies and policies of the EAC and LVBC.

Member state respondents as well as with the respondents of the LVBC and EAC secretariats showed support for housing the LVETF within an existing EAC institution.

iii. Disadvantages/Risks

The LVETF will inherit the legal and institutional framework of the LVBC. If the stakeholder sub-committee is not established, this might result in indirect accountability to non-government stakeholders and less ownership of the LVETF with these stakeholders in LVB. LVETF nested within the LVBC might not create a strong institutional profile for the LVETF. LVETF might be seen solely as a resource mobilisation department for the LVBC. This can lead to a 'wait and see' attitude with important partners. In turn, this lowers the ownership of and trust in the ambition that the LVETF will become an instrument to provide sustainable financing for the environment.

When the LVETF is housed within the newly established EACDF, the development Fund could overwhelm the LVETF with its development mandate. The way to correct this is to ensure that the Steering committee has proper sectoral and geographic focus, that

institutionalised coordination between the LVBC and the LVETF is strong and that the Senior Officer is operationally close to the LVBC secretariat.

A risk mentioned was the fact that the EAC and LVBC have to fulfill many mandates from one organisational point of view. It is apparent that the EAC and LVBC development mandates are often not fully conducive to the environmental protection mandate. Also, the financing for the development mandate is often a magnitude larger, leading to lower attention for the environmental mandate. Balancing the development interest with the environmental needs within one institution is a challenge.

The LVETF as part of an EAC institution is subject to intergovernmental governance and partner state government bureaucracies and politics. Experience from a government led trust fund in the region shows that this can inhibit the flexibility and effectiveness of the operation of an environmental trust fund.

b) Financing

i. Advantages

Since the LVETF is part of the EAC institutional set up, it would be enabled to receive financing from partner state contributions indirectly as part of the process for assigning the budget for existing EAC institutions. Partner state respondents have expressed the political willingness of their governments to support the LVETF with contributions. The LVETF would be enabled to fund raise specifically for the environmental objectives stemming from the mission of the LVBC. Within the LVBC, the LVETF will have direct access to existing knowledge and networks for fund raising. And, the current projects in Mt Elgon and Mau with their valuation studies provide good entry points to develop PES based financing like REDD+ and PWS. Next to this, direct access to member state governments could enable the development and implementation of these financing instruments.

Several development partners have voiced a preference to stimulate stakeholder participation in the LVETF. Expanding the Partner state Steering committee with a stakeholder subcommittee will most likely lead to easier access to finance from development partners. Incorporation of the corporate sector in the stakeholder subcommittee would enhance access to private sector funding as well.

ii. Disadvantages/risks

As member state contributions to the LVBC are already restricted, internal competition for funding could lead to rather low levels of finance from member states to the LVETF. The location of LVETF within an institution of the EAC could lead to lower level access to Partner States and their funding. This might result in less effective fund raising outcomes with member states. The same goes for fundraising with development partners. The LVBC is just 'further away' from development partner contacts than the EAC, especially now that the EAC Development Fund might be approved soon. If approved, the EACDF might become the main entry point for development partners resulting in decreased access for an LVBC based resource mobiliser for the environment as the LVETF.

Prospective funding sources from private sector and foundations might be more difficult to access from an EAC based institution as these organisations are less likely to donate money to government related institutions.

Global and regional ecosystem markets might be more difficult to access and created by the LVETF when nested within the LVBC. Also there are questions if it is LVBC's mandate to operate PES schemes or even be an implementing agency. The character of the LVBC as regional collaborative arrangement seems to be more coordinative.

While the LVBC secretariat has been very effective in fundraising for a variety of programmes, this fundraising has not been focused on the environment alone because of the broad mandate of LVBC itself. Nesting the LVETF within the LVBC might dilute the

focus of LVETF on the environment as demands for finance in the organisation are broader than environment. This could undermine the effectiveness of the LVETF in raising funds and achieving environmental results with these funds.

c) Technical

i. Advantages

If the LVETF is nested within the LVBC there is direct access to the knowledge and experience on the environment at LVBC. Through the operation of the LVETF within the LVBC, the environmental capacities and knowledge of the organisation will be strengthened. The LVETF will have direct access to funding opportunities following the Strategic Action Plan for LVB and the existing programmes of the LVBC.

ii. Disadvantages

The current LVBC secretariat has limited capacity to run the LVETF. Also, the LVBC has a broader mandate than the environment. It might be difficult to maintain an environmental focus because of the wider mandate of the LVBC. There will surely be competition between the environment and non-environment sectors in LVBC in terms of time and money.

Placing LVETF in the EACDF might lead to less direct access to knowledge and expertise on the environment in LVB. The LVETF might go and build up its own technical capacity in the field of environment. This could lead to fragmentation of knowledge and expertise between LVBC and EACDF on the environment in LVB

d) Estimated costs of Option 1

The costs that would be associated with option 1 is illustrated in the Table 5

TABLE 5: COSTS OF RUNNING LVETF NESTED WITHIN AN EAC INSTITUTION

Option 1. LVETF nested within an EAC institution				
Budget Item	Unit	No. of Units	Unit Cost (US\$)	Total (US \$)
Fund Manager	Month	12	5,500	66,000
Resource M. Officer	Month	12	5,200	62,400
Programme Officer	Month	12	4,500	54,000
Consultancies/Technical Assistance ⁸⁹				
Steering	Meeting	4	20,000 ⁹⁰	80,000
Communication	Month	12	1,500	18,000
Travel LVETF Staff	Month	12	4,500	54,000
Common Costs ⁹¹	Month	12	3,500	42,000
Sub Total				376,400
Cost Recovery	%	10% ⁹²		37,640
Total Cost				414,040

⁸⁹ Consultancies include those to develop business plan, communication plan and resource mobilization strategy

⁹⁰ These costs include the cost of the 10 Steering Group Members drawn from the five member states each state represented by two people. The costs include air tickets and per diems for three nights for four meetings in a year.

⁹¹ These costs include space and shared facilities at the LVBC or other EAC Institutions depending on decision on institutional home.

⁹² 10% is taken as an average figure whereas in reality LVBC/EAC will apply different rates for different donors e.g. 8% for DGIS, 12% for EU and other European donors and upto 18% for USAID.

6.1.2 OPTION 2: LVETF AS A NEW EAC INSTITUTION

a) Institutional, legal and operational:

- i. Linkages between LVETF, National and Regional Trust Funds to avoid duplication and increase synergy*

In order to avoid duplication, the LVETF formulation, establishment and operation will be linked and coordinated with other National and Regional Trust fund. The LVETF will be established through a protocol as a new institution under the EAC treaty, the process will be similar to the development of the EAC Development Fund. As pointed out in the Draft Protocol on the Establishment of the EACDF, it is envisaged that the fund will be administered by the East African Development Bank (EADB). Likewise, the LVETF could be administered by the EADB. Following the Draft Protocol, the EACDF will be governed by a governing council of the Ministers of Finance of the Member States that reports to the council of ministers. Similarly, the LVETF would be governed by a governing council. The governing council of the LVETF could be made up of the Ministers of Environment of the Member States and reporting to the council of ministers of the EAC. To strengthen stakeholder involvement and ownership, the governing council could have stakeholder representation through the mechanism of the recently communicated stakeholder engagement platform, the Annual Forum⁹³ or a sub Forum focused on the environment in LVB. Alternatively, stakeholders could participate in the board of directors and thus be closer to the operations of the LVETF.

An alternative governance structure could be that the LVETF would be governed by the governing council of the EACDF. It expected however this would create a deviation from the main objective of the fund to finance environmental activities in LVB. Whichever the

93 <http://www.eac.int/about-eac/eacnews/849-cs-develop-framework-to-engage-eac.html>

governance set up looks like, the LVETF being an institution of the EAC makes it directly accountable to the EAC Partner States.

i. Advantages

Institutionally the LVETF will be established by a protocol under the EAC treaty as an institution of the EAC and thus be fully accountable to the EAC member states. Making use of the existing bank-infrastructure with the EADB can prove to be efficient for the administration of the fund. Keeping different funds (EACDF, CCF and the LVETF) for the EAC together, could create efficient concentration of resource mobilisation efforts as well as a centralisation of critical expertise in terms of fundraising and operations. The LVETF being an EAC institution would have a stronger institutional and political profile than the LVETF located in the LVBC and thus increasing the odds for it being successful in mobilising finance for the environment of LVB.

As shown by the draft modalities of the EACCCF, the option of LVETF becoming a new EAC institution can evolve from Option 1, the LVETF as being embedded in a current institution.

ii. Disadvantages/risks

It is questionable if being close to a larger and more broadly operating EACDF is conducive to the objectives of the LVETF. The EACDF might overwhelm the LVETF and thus undermine the effectiveness of it to finance the environment of LVB. Aligning the governance structures of the different funds could lead to a too general governance approach. Governance for a development fund is vastly different from governance for an environmental fund.

Respondents mentioned that it might become institutionally too busy in the LVB region with an additional institution focused on financing the environment. With the LVBC, the

LVFO, the Fisheries Levy Trust Fund, there seem to be already enough institutions focused on coordinating the LVB in relation to environment.

Realising strong stakeholder involvement within EAC institutions is not yet a mainstream approach and thus requires institutional innovation. A lack of stakeholder participation in the governance of the LVETF would have its bearing on the credibility and ownership of the LVETF with stakeholders. Also it could undermine the development and implementation of local and regional innovative financing mechanisms like Payment for Environmental Services. Being a new EAC institution focused on the LVB and on the environment could lead to competition and duplication with the LVBC. And, as highlight in the reviews of Environmental Funds, trust funds within government related administrative systems tend to be less efficient and effective.

b) Financing

i. Advantages

As an EAC institution, the LVETF will receive annual resource allocations for the environment out of member state contributions. Also, partner state respondents have voiced the political will of their governments to support the LVETF if it is within the EAC legal framework. Various development partners have noted that they would be willing to finance the LVETF as an EAC institution. Being a fully government endorsed institution could lead to strong collaboration and coordination on financing through REDD+.

ii. Disadvantages/risks

It is not clear if an EAC institution can receive foundation and private sector funding. Also, LVETF being an extension of the EAC might not automatically lead to ownership with stakeholders in the LVB. Adding a new institution to the EAC will force the already thin financial support from Partner States to be spread more thinly across institutions.

As funds for the environment are restricted, competition for funding between EAC institutions could lead to low effectiveness in fundraising.

c) Technical

i. Advantages

As part of the EAC, the LVETF can directly access technical expertise in EAC institutions for its operations and programming. Being a new institution with a strong focus on environmental markets for sustainable financing of the environment in LVB could spur the rapid development of new knowledge and expertise within the EAC and could help provide access to member states to drive new environmental policy.

The LVETF as a new institution can outsource its financial administration to the EADB and thus make better use of existing EAC institutional capacities.

ii. Disadvantages/risks

If situated in a position outside the LVBC could make it harder to access specific knowledge and expertise from the LVBC secretariat. Also being a separate institution could lead to competitive tensions and a lack of willingness to share critical knowledge and information on the environment. It is unclear how the LVETF and the Climate Change Fund will deal with overlaps in their mandates. In theory, the LVETF would also capture climate change issues as part of its financing mandate. Especially with respect to REDD+ fund raising this could lead to tensions between both funds.

d) Estimated costs of Option 2

The costs estimated below are based on the assumption that such an institutional arrangement will require senior staff and an administrative structure that would be similar to other institutions within the EAC. While this has produced rather high

overhead costs, it is possible to have a much leaner staff establishment provided that there is minimum staff to engage and maintain relations with donors, raise funds and disburse funds judiciously, serve the Board of Trustees and liaise with external fund managers.

TABLE 6: COSTS OF RUNNING LVETF AS A NEW INSITUATION WITHIN THE LVBC

Option 2. LVETF as a new EAC institution				
Budget Item	Unit	No. of Units	Unit Cost (US\$)	Total (US \$)
Staff Costs				
Executive Director	Month	12	8,000	96,000
Fund Manager	Month	12	5,500	66,000
Resource M. Officer	Month	12	5,200	62,400
Communication Officer	Month	12	4,500	54,000
Administration Staff	Month	12	5,000	60,000
Vehicles	Number	2	63,500	127,000
Office Equipment	Assorted	Several	45,000	45,000
Office Rent	Ft ² Per Month	2,500	18	45,000
Office Running Costs ⁹⁴	Month	12	3,500	42,000
Technical Assistance	Number	5	25,000	125,000
Steering Group	Meeting	4	20,000	80,000
Total				802,400

⁹⁴ These costs include telephone, consumables, cleaning etc

These costs include the cost of the:

- i. 10 Steering Group Members drawn from the five member states each state represented by two people;
- ii. air tickets and per diems for three nights for four meetings in a year; and
- iii. space and shared facilities at the LVBC or other EAC Institutions depending on decision on institutional home;

The 10% is taken as an average figure whereas in reality LVBC/EAC will apply different rates for different donors e.g. 8% for DGIS, 12% for EU and other European donors and upto 18% for USAID.

6.1.3 OPTION 3: LVETF AS A PUBLIC-PRIVATE PARTNERSHIP

a) Institutional, legal and operational:

- i. *Linkages between LVETF, National and Regional Trust Funds to avoid duplication and increase synergy*

In order to avoid duplication, the LVETF formulation, establishment and operation will be linked and coordinated with other National and Regional Trust fund. The LVETF would be a public-private partnership that can be established in three ways as already discussed in the previous chapter: one, by incorporation as a trust fund under the Trustee legislation in one of the Partner States; two, as a trust fund established under the Trustee legislation of a non EAC partner state; and three, as a non-profit Foundation under Foundation related legal framework outside the EAC region.

The governance of the trust fund is made up of a governing board of Trustees or members that can have multi-stakeholder representation. The board has member state governments, communities, Private sector, civil society, Development partners,

EAC/LVBC/LVFO and even Research institutions. Following the best practice of EFs, the government representation on the board could be considered to be a minority. The LVETF board can be large (15 members) to have good representation of all stakeholders. The board works efficiently with committees tasked with specific activities like enhancing stakeholder participation, and specific technical or content related committees for PES and fundraising.

Through its Trust Deed or Articles of Association the LVETF is bound to a mandate to finance the environmental agenda in the Lake Victoria Basin as put forward in the relevant strategies and action plans of the LVBC. Similarly, alignment with EAC and LVBC policies in terms of environment and the broader sustainable development agenda is ensured by the Deed or Articles of Association. These specify the requirement of legal agreements between the LVETF and the EAC/LVBC to ensure alignment. The legal agreements can take the form of a binding Memorandum of Understanding that specify the alignment of the LVETF with the EAC policies and regulations as well as define collaborative mechanisms between the organisations.

In practice option 3 would entail a relatively small team within the LVBC Secretariat since most of the operations will be run from outside with linkages with LVBC to ensure programmatic alignment with the LVBC. The operations resemble more that of a company than an intergovernmental institution. While at the same time, the administrative systems reflect accountability and are transparent to all stakeholders involved. The organisation is light and flexible and able to adapt to changing circumstances rapidly. Although the Caribbean Catastrophe Risk Insurance Facility mentioned in Chapter 2 is operating in a different sector, it does reflect the mode of governance and operation that can be thought of for a regional public private partnership for the environment like the LVETF.

i. Advantages

The organisation has a great deal of independence from existing political institutions while at the same time operating within the remit of the environmental priorities in LVB as put forward by the LVBC. The LVETF has direct accountability to the stakeholders in the LVB, the Partner States, the EAC and LVBC secretariats. It will have to have efficient, light and transparent administrative operations. Due to its multistakeholder nature, there is a high probability of ownership with the stakeholders in the LVB for the LVETF as a new institution specifically focused on financing the environment in the LVB. If resourced with start up funds the LVETF will surely raise the investment and awareness on environmental issues in LVB as shown by all the reviews of Environmental Funds around the globe.

ii. Disadvantages/Risks

The risk associated with a light institutional and legal, institutional and operational public-private set up is a lack of connection and synchronisation with the systems, mechanisms and processes of the partner state governments and the EAC and LVBC secretariats. These systems are more bureaucratic and political. This could lead to temporal differences in funding and implementation of environmental activities and policies which could lead frustration within the LVETF organisation and governance as well as with the partner state and LVBC led regional initiatives.

Since the LVETF would be a separate institution under this arrangement, it might have more difficulty to access and use the existing networks, systems and infrastructure of LVBC and other EAC institutions including resource mobilisation. A risk could be that LVETF will set up parallel systems resulting in less efficiency. On the other hand if LVETF is efficient and effective, it could potentially provide a good platform for implementation of EAC policies and provide examples for engagement on environment in the region.

The question in which country the organisation should be registered as an institution separate from the EAC might lead to political challenges with the EAC Partner States as founders of the organisation. To solve this, the founders of the organisation could be a broader stakeholder group that is able to get through this difficult question. Alternatively, the organisation could be legally established in a country outside the EAC (see the previous chapter).

A majority of interviewed respondents discarded having a separate institution to the EAC for the main reason of alignment of the LVETF with the existing political and regulatory frameworks. However, it should be noted that there are legal ways to ensure this alignment even while the LVETF is an organisation that is legally independent from the EAC. Also the secretariat of the LVETF could be physically housed at the LVBC secretariat to ensure good coordination and alignment. One respondent was very much attracted to the idea of a separate organisation for the environment in LVB. The new organisation could provide environmentally focused counterweight to the more development focused EAC institutions. It is interesting to note that the vast majority of trust funds that were reviewed in the different studies and this report are legally and institutionally independent of the government political framework. The two separate global reviews of environmental identified this as a key success factor determining Environmental Funds.

Several respondents noted that it would be difficult for member states to accept a government minority in the board of the LVETF. One proposal was a 50:50 representation between public and private stakeholders in the board.

Respondents also mentioned that it might become institutionally too busy in the LVB region with an additional institution focused on financing the environment. With the LVBC, the LVFO, the Fisheries Levy Trust Fund, there are already enough institutions focused on the environment of LVB.

Analysing interviews with the respondents, the comments from the working meeting, it seems that the political support for establishing the LVETF independent from the EAC might not be high enough.

b) Financing:

i. Advantages

The multistakeholder character of the organisation will enable fundraising with development partners, private sector and foundations. All of these have a specific focus on stakeholder participation in projects, programmes and initiatives. The appearance of the organisation is more businesslike and independent through its multistakeholder board. The LVETF could also engage in innovative types of fund raising like “crowd fund raising” by offering a funding window to small and medium sized enterprise in the region as a means to finance environmental management. Globally this has proven to generate substantial finance for all kinds of development and environment activities.

Also, its public private nature enables the LVETF to position itself as an independent broker and negotiator in Payment for environmental services schemes. The Kenyan 1 million tonne REDD+ project is a good example of a private entity developing a project in agreement with the Kenyan government. As a party legally independent from the government, the LVETF can also more easily engage to develop REDD+ projects. This positioning helps driving fund raising activities as well.

ii. Disadvantages/risks

The public-private organisation might run the risk not to be able to access member state funding and contributions because of public procurement rules for companies and foundations. To solve this, the flow of funds from member states needs to be enabled

through the Trust Deed or specific agreements. The LVETF if set up on this way might thus have more difficulty to receive public funding.

c) Technical

i. Advantages

As a separate organisation for financing the environment in the LVB, the LVETF would surely be an advocate for good environmental policy and coordination between member states. Next to this as an environmentally focused organisation, it is expected that it will generate stronger capacity on the environment in the LVB either in its own institutions or outside through financing specific capacity building activities.

The LVETF will likely become an expert on the finance for the environment in Lake Victoria basin that can serve as an advisor to EAC Partner States, and the EAC and LVBC secretariats. As a new organisation it will be enabled to pick up innovative projects more rapidly. The odds of innovative projects and approaches for the environment becoming a reality in the basin might therefore increase.

While it will retain environmental expertise itself, the LVETF will need to lend environmental expertise from LVBC, other institutions in EAC and partners states as well as globally to remain operationally light and focused on its tasks.

ii. Disadvantages

A new organisation slightly separated from the EAC/LVBC might lead to fragmentation and duplication of knowledge and expertise as well as in developing projects and initiatives.

d) Estimated costs of Option 3

The third option will bring additional costs of fund management (Custody, Administration, Asset management and Auditor) to the operating costs of the LVETF.

TABLE 7: COSTS OF LVETF AS PUBLIC-PRIVATE PARTNERSHIP

Option 3. LVETF as a public-private partnership				
Budget Item	Unit	No. of Units	Unit Cost (US\$)	Total (US \$)
Fund Administrator	Month	12	6,500	78,000
Resource M. Officer	Month	12	5,200	62,400
Communication Officer	Month	12	4,500	54,000
Administration Staff	Month	12	5,000	60,000
Vehicles	Number	1	63,500	63,500
Office Equipment	Assorted	Several	45,000	45,000
Office Rent	Ft ² Per Month	1,500	18	27,000
Office Running Costs ⁹⁵	Month	12	3,500	42,000
Technical Assistance	Number	5	25,000	125,000
Board of Trustees	Meeting	4	20,000	80,000
Sub-Total				636,000
Custodian	% ⁹⁶	% of total amount	Negotiable	?
Administration	%	% of total	Negotiable	?

⁹⁵ These costs include telephone, consumables, cleaning etc

⁹⁶ There are existing ranges of rates applicable in the EAC region especially for pension funds that can be used as a baseline. In general there rates are in the range of 0.13% to 0.25% of the total fund.

		amount		
Fund Manager/Investor	%	% of total amount	Negotiable	?
Auditor	%	% of total amount	Negotiable	
Total				636,900 + ?

NB: These costs include telephone, consumables, cleaning etc

There are existing ranges of rates applicable in the EAC region especially for pension funds that can be used as a baseline. In general there rates are in the range of 0.13% to 0.25% of the total fund.

6.2 DISCUSSION

a) LVETF embedded in an existing EAC institution, engaging stakeholders, but with an option to evolve

Overall it can be concluded that the LVETF as a financing instrument for the environment of Lake Victoria Basins has endorsement from the respondents.

Respondents are divided about the legal nature of the institution but a majority of them see the LVETF as an institution that is embedded within the EAC framework as part of the LVBC or part of the proposed EACDF. This means that the majority support embedding the LVETF in an existing EAC institution (option 1) or creating LVETF as a new EAC institution (Option 2). Theoretically, option 2 can evolve out of option 1 by incorporating provisions similar to the ones in the draft modalities of the EACCCF.

A minority has preference for a governance structure separate from the EAC/LVBC institutions which is option 3. The underlying argumentation is to increase the agility,

flexibility and efficiency of the governance and operations of the fund by decreasing government power in the governance. With a preference for option 1 and 2 this might be difficult to achieve. However what might be achievable is the active incorporation of the views of stakeholders from civil society, private sector and communities in the governance of the fund and the decisions for financing environmental activities. Increased ownership by a broader stakeholder community will make the fund more effective in carrying out its mandate. A proposal is to set up a subcommittee or sub forum of non-government stakeholders to engage with the Steering committee or council of the LVETF.

In order to shape inclusive governance of the LVETF, it would be good to carefully consider option 3. While option 3 might feel to governments as giving away power to non-government stakeholders, the experiences with environmental funds around the world show that the key to success of these funds is agility, transparency and stakeholder ownership. The flexibility also relates to the ability of the fund to respond to emerging issues that are of concern to the stakeholders in the LVB especially the local communities within the basin. This will enhance the relevance of the LVETF to the environmental issues in the region. The literature shows that these characteristics are normally less well reflected in government based funds.

From the viewpoint of financing the LVETF, the main sources of funding will be member states, development partners, private sector and foundations, as well as creating environmental services markets. In terms of accessing finance, from the consultations it appears that a broadly endorsed multistakeholder trust fund looks to be the best way to access these financial sources. In terms of private sector funding, it is not clear to the consultant if an LVETF as EAC institution or embedded in the EAC can access and receive private sector financing to carry out its mission.

Based on the above, ideally the LVETF should be institutionally and legally in line with the EAC treaty, LVB protocol and LVBC policy documents and strategies while at the same time being a strong multi-stakeholder institution.

6.3 SYNTHESIS OF THE PROPOSED OPTIONS

Summary of the elaborations on the proposed above is summaries in the table below. The table 8 provides proposed options for establishing the LVETF and their advantages and disadvantages in legal, institutional and financial implications.

TABLE 8: ADVANTAGES AND DISADVANTAGES OF PROPOSED LEGAL AND INSITUTIONAL FOR ESTABLISHING LVETF

Option	Legal and institutional advantages	Legal and institutional disadvantages	Financial implication (USD)
Option 1: LVETF nested in an EAC institution	<ul style="list-style-type: none"> i. its operational modalities be directly and fully in line with the policies, strategies and legal requirements of EAC treaty and the Protocol for the sustainable development of Lake Victoria Basin. ii. This guarantees the accountability to member states and to the LVBC mandate and strategies. iii. the alignment of the LVETF with the LVBC policies and strategies can be ensured through clear TORs of the Steering committee and Senior Officer. iv. A positive outcome of engaging stakeholders in the LVETF through a subcommittee could be an increased stakeholder participation in EAC/LVBC activities. v. In turn, this leads to increased ownership by stakeholders for the EAC/LVBC mandate, and also to better information sharing between a broad range of stakeholders and the EAC/LVBC, potentially leading to stronger implementation of strategies and policies of the EAC and LVBC. vi. Member state respondents as well as with the respondents of the LVBC and EAC secretariats showed support for housing the LVETF within an existing EAC institution. 	<ul style="list-style-type: none"> i. it will inherit the legal and institutional framework of the LVBC. ii. If the stakeholder sub-committee is not established, this might result in indirect accountability to non-government stakeholders and less ownership of the LVETF with these stakeholders in LVB iii. LVETF nested within the LVBC might not create a strong institutional profile for the LVETF iv. LVETF might be seen solely as a resource mobilisation department for the LVBC v. This can lead to a 'wait and see' attitude with important partners vi. In turn, this lowers the ownership and trust in the ambition that the LVETF will become an instrument to provide sustainable financing for the environment. vii. When the LVETF is housed within the newly established EACDF, the development Fund could overwhelm the LVETF with its development mandate viii. It is apparent that the EAC and LVBC development mandates are often not fully conducive to the environmental protection mandate ix. the financing for the development mandate is often a magnitude larger, leading to lower attention for the environmental mandate x. Balancing the development interest with the environmental needs within 	414,040

		<p>one institution is a challenge</p> <ul style="list-style-type: none"> xi. The LVETF as part of an EAC institution is subject to intergovernmental governance and partner state government bureaucracies and politics. xii. Experience from a government led trust fund in the region shows that this can inhibit the flexibility and effectiveness of the operation of an environmental trust fund. 	
Option 2: LVETF as a new EAC institution	<ul style="list-style-type: none"> i. Institutionally the LVETF will be established by a protocol under the EAC treaty as an institution of the EAC and thus be fully accountable to the EAC member states. ii. Making use of the existing bank-infrastructure with the EADB can prove to be efficient for the administration of the fund. iii. Keeping different funds (EACDF, CCF and the LVETF) for the EAC together, could create efficient concentration of resource mobilisation efforts as well as a centralisation of critical expertise in terms of fundraising and operations. iv. The LVETF being an EAC institution would have a stronger institutional and political profile than the LVETF located in the LVBC and thus increasing the odds for it being successful in mobilising finance for the environment of LVB v. As shown by the draft modalities of the EACCCF, the option of LVETF becoming a new EAC institution can evolve from Option 1, the LVETF as being embedded in a current institution. 	<ul style="list-style-type: none"> i. It is questionable if being close to a larger and more broadly operating EACDF is conducive to the objectives of the LVETF. ii. The EACDF might overwhelm the LVETF and thus undermine the effectiveness of it to finance the environment of LVB. iii. Aligning the governance structures of the different funds could lead to a too general governance approach. iv. Governance for a development fund is vastly different from governance for an environmental fund v. Respondents mentioned that it might become institutionally too busy in the LVB region with an additional institution focused on financing the environment. vi. A lack of stakeholder participation in the governance of the LVETF would have its bearing on the credibility and ownership of the LVETF with stakeholders. vii. Also it could undermine the development and implementation of local and regional innovative financing mechanisms like Payment for Environmental Services. viii. Being a new EAC institution focused on the LVB and on the environment could lead to competition and duplication with the LVBC. ix. Environmental Funds, trust funds within government related administrative systems tend to be less efficient and effective. 	802,400
Option 3: LVETF as a public-private partnership	<ul style="list-style-type: none"> i. It will have a great deal of independence from existing political institutions while at the same time operating within the 	<ul style="list-style-type: none"> i. lack of connection and synchronisation with the systems, mechanisms and processes of the partner state governments and the 	636,900 +?

	<p>remit of the environmental priorities in LVB as put forward by the LVBC.</p> <ul style="list-style-type: none"> ii. The LVETF has direct accountability to the stakeholders in the LVB, the Partner States, the EAC and LVBC secretariats. iii. It will have to have efficient, light and transparent administrative operations. iv. Due to its multistakeholder nature, there is a high probability of ownership with the stakeholders in the LVB for the LVETF as a new institution specifically focused on financing the environment in the LVB. v. If resourced with start up funds the LVETF will surely raise the investment and awareness on environmental issues in LVB as shown by all the reviews of Environmental Funds around the globe. 	<p>EAC and LVBC secretariats.</p> <ul style="list-style-type: none"> ii. This could lead to temporal differences in funding and implementation of environmental activities and policies which could lead frustration within the LVETF organisation and governance as well as with the partner state and LVBC led regional initiatives iii. it might have more difficulty to access and use the existing networks, systems and infrastructure of LVBC and other EAC institutions including resource mobilisation. iv. LVETF will set up parallel systems resulting in less efficiency. v. The question in which country the organisation should be registered as an institution separate from the EAC might lead to political challenges with the EAC Partner States as founders of the organisation. 	
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b) LVETF stakeholder involvement and ownership to be further defined

Respondents appear to share the need for strong stakeholder participation in the LVETF as being crucial for its success in terms of ownership in the region and commitment to innovative financing models like PWS and REDD+. How this should be incorporated in the governance structure of an EAC institution is as yet unclear. As a first step it would be good to understand what is meant by stakeholder participation. Does it mean consultation or direct involvement in governance and decision making? Or any other type of involvement in between those two. There is a need for a further discussion on the role and position of non-government stakeholders in the LVETF and maybe more widely in the LVBC.

While the LVETF is meant to generate finance for the environment in Lake Victoria basin, increased stakeholder engagement would lead to increased awareness and ownership of the environment in LVB. Not only will this make programming and implementation of

environmental projects more effective, this will also lead to own initiatives from various stakeholders. The odds are that by having more stakeholders on board for the environment in LVB, also engagement in environmental management will increase. Even this might open opportunities for crowd funding, through donations of for example small and medium sized private sector organisations to the LVETF to further better environmental management in the LVB. One respondent noted that the fund should be established from bottom up to bring in the line agencies to support the idea as well as local stakeholders. A diligent process is needed to bring in a broad range of government and non government stakeholders to create political commitment and ownership for the LVETF. One respondent in Uganda noted that there are many parliamentarians that might support the idea of the LVETF.

c) LVETF hosted by the LVBC seems logical using other EAC institutional infrastructure

The consideration which came from the EAC secretariat was the need to centralise and efficiently use existing expertise in financing and financial administration. The draft protocol for the EACDF shows this trend by using the infrastructure of the EADB for the management of the fund. On the other side, the draft modalities of the EACCCF show a different approach of embedding a Fund within an existing EAC sectoral department.

Because of its limited sectoral and geographic scope, it seems logical that the LVETF would sit within the LVBC. However if funds increase and need to be managed, a specific provision can be made in the operational modalities for outsourcing management of the LVETF to the EADB.

Some respondents noted that while the Trust fund could be independent from the EAC/LVBC institutionally and in its governance, the LVBC could host the secretariat.

d) Balance environmental focus with financial focus in LVETF governance and management

When placed within the legal and institutional framework of the EAC as part of the LVBC, the LVETF governance should be in line with that. This means that the Council of Ministers has the final supervision on the LVETF. However in order to ensure that relevant environmental expertise is brought into the LVETF institution, it is advisable to either have a governing council that is balanced between the expertise fields of environment and finance. Irrespective of the institutional nature of the LVETF the governing council should include representatives of environmental ministries as well as representation from the Ministries of finance of member states. As mentioned before, the role and position of other non government stakeholders should be further assessed and could materialise either at the governing council level or the board of directors' level. The protocol and/or modalities should clearly describe the role and division of power of the various governance bodies.

e) Focus on developing key fund raising and environmental market development skills

Key expertise needed in the LVETF are skills and knowledge on fund raising with the private sector and foundations. Please note that the stakeholder processes will open up crucial networks for future fund raising. Next to this, knowledge and skills are required for developing sustainable financing on the basis of global, regional and local environmental markets for forest-carbon, Water shed services, and other environmental services.

f) Guarantee a focus on the environment in the LVETF through transparency to society

As seen from the assessment of the three options, placing the LVETF within the EAC institutional framework might lead to the risk of undermining the environmental focus

and effectiveness of the LVETF. If the option for embedding the LVETF in the EAC or LVBC is chosen, it would be wise to generate checks and guarantees for its environmental agenda. One way in which this can be done is through transparency in reporting, strong stakeholder involvement and openness to society so that the environmental agenda can be validated against the performance and results of the LVETF.

6.4 RECOMMENDATIONS AND NEXT STEPS

This report presents information regarding the possibilities for financing the environment in Lake Victoria Basin. One important finding is the rather low level of current public expenditure on the environment of LVB by Partner States. The public expenditure is showing a stable and possibly upward trend. The region will continue to grow economically and also tax revenues will. It is expected that the level of public finance for the environment will increase in the future although not very rapidly. Next to this, it is foreseen that the investment from development partners will not increase substantially in light of the global economic downturn as well as the decreasing political support for development aid in development partner countries. If more sustainable financing for the environment needs to be generated, this will need to come largely out of other sources. Two sources have been identified: (a) private sector and foundation financing and (b) global, regional and local environmental markets. For both the capacity in EAC and LVBC seems to be limited. The LVETF might be the means to access these new sources of financing for the environment in LVB. The history of Environmental Trust Funds shows that generally they increase the level of funding available for the environment. The report that is lying before you is a first step to assess the feasibility of an environmental fund for the LVB. Based on the findings, it seems that LVETF is feasible depending on the legal, institutional, operational characteristics and focus that it will have.

a) Decide on the legal and institutional nature of the LVETF

Once a positive decision is taken for establishing the LVETF, the legal and institutional characteristics of the LVETF should be carefully debated and decided on within the LVBC. The three options for establishing the LVETF as presented in the previous chapter serve as an entry point for this discussion. Important issues to consider in the debate are fund raising effectiveness, stakeholder engagement and ownership of the LVETF and operational efficiency and alignment of the LVETF with EAC and LVBC policies.

b) Engage stakeholders on the LVETF

The stakeholders that the consulting team spoke to were largely restricted to member state and development partner governments. It would be good to expand the discussion on the LVETF to involve private sector, civil society and community representatives. This is timely considering the proposal to develop an annual EAC stakeholder forum. This Forum might provide an umbrella framework for a subsidiary more regional stakeholder forum where the stakeholders can be engaged on the LVETF. The focus of the discussion would best be on the purpose of the LVET and how stakeholders can and want to be involved in the LVETF as an instrument to generate finance for the environment. It is also an important that as an operating principle, the LVETF, in line with the operating principles of the EAC, that gender roles in the management of the natural resources and the other components of the physical environment are taken into full recognition in the design of programmes and the sharing of benefits brought about by a trust fund.

c) Create a group of champions as steering committee to the further development of the LVETF

In order for the next steps to be carried out, the process needs to be led and championed. The consulting team proposes that a ‘group of champions’ is identified to take the process forward on behalf of and in conjunction with LVBC. This group will function as a steering committee for the LVETF and should be enabled to have easy access to the higher levels in the EAC, the LVBC and member state governments in order to function properly. Members of the group can be member state representatives, development

partners, representatives from the LVBC secretariat and EAC secretariat as well as other stakeholders in the LVB like the private sector. This group of champions should have terms of reference that ends with the objective to establish the LVETF. One specific focus of this group should be to garner political support for the LVETF in the region and use all channels available to generate that support. Also, the committee needs have good access to the development partner community and environmental donor community that will most likely put up the initial investments for establishing and operating the fund. Although some respondents have informally mentioned that they might be willing to champion this process, no formal commitments have been obtained.

d) Fill gaps in the feasibility study and produce a business plan for the LVETF

This report should be seen as part of a larger feasibility study for the LVETF. It provides positive information on the feasibility of the LVETF and concludes that wide interest as well as initial funding exists for the establishment of the LVETF. However it is not a full feasibility study or business plan for the LVETF. There are some gaps in the study:

- i. the limited non government stakeholder involvement;
- ii. limited access to information member state public expenditure on the environment especially for Burundi and Rwanda;
- iii. limited information on the prospects for generating finance from the private sector and foundations;
- iv. limited in depth review of the possibilities of PES as a revolving revenue creator for the fund; and
- v. limited understanding of the financing gap for the environment because of fragmented information on management costs as well as non-government financing of the environment.

These are pieces of information that need to be collected in order to better understand the business model for the LVETF and to produce a detailed business plan for the

LVETF. As a guide, the environmental fund toolkit of the Conservation Finance Alliance can be employed. The toolkit describes three steps in the start up of any Environment Fund: feasibility study, creating a steering committee, and write a profile⁹⁷.

All these three are part of a business planning process.

e) Establish a financial target for the LVETF by estimating the management costs of the environmental services for the LVB economy

As mentioned, it is not clear what the total costs are of the management of the environment in LVB in light of the economic value that they provide. It would be good to understand this level of cost as a financing target for the LVETF. LVBC could start this exercise for the Mt Elgon and Mau Forest Blocks. The economic valuation studies for Mount Elgon and the Mau Forest blocks are very useful to show the economic value of ecosystems and the environment. It is unclear what the investment into these ecosystems should be in order to maintain the ecosystem services. Because of the long term engagement of LVBC and member states in these landscapes they have the potential to develop as trans-boundary environmental services markets. Apart from determining the 'theoretic' economic value of both landscapes, it would be worthwhile to understand the 'price' (management costs) for sustaining the ecosystem services of both landscapes. As a next step this could be expanded to other landscapes of LVB to finally cover the whole of LVB.

f) Roll out the action plan to have the LVETF operational in 2014

An action plan to operationalise the LVETF by the end of 2014 is the next sections It is recommended that LVBC uses this plan to establish and operationalise the LVETF. The action plan also covers the above recommendations.

97 <http://toolkit.conservationfinance.org/categories/start>

6.5 SUGGESTED ACTION PLAN TO ESTABLISH THE LVETF

Herein is a proposed detailed action plan to establish the LVETF. The action plan starts with the objective and then outlines key outputs to be achieved in the process for establishing the LVETF. Under the outputs we present activities to achieve the output. The action plan does not assume to be complete; instead it highlights important steps to be taken and things to be thought of in the process of establishing the LVETF. It also presents a rough time frame for establishment of the LVETF.

6.6 OBJECTIVE

By mid 2015 the LVETF is receiving and disbursing funds for environmental activities in the LVB

a) Output 1: Draft profile of LVETF specifying to be resolved issues (end 2011)

- i. Decide within LVBC on the institutional nature of the LVETF following the three options;
- ii. Assign a leader to further the development of the LVETF;
- iii. Produce a draft profile of the LVETF on the basis of the outcome of the consultancy;
- iv. Liaise further with technical experts on environmental funds (Conservation Finance Alliance and its Environmental funds Working Group especially the one operational for Africa, GEF, KfW and FFEM, to extract lessons and approaches and detail the profile as well as to generate interest for funding the LVETF when it is established);

- v. Produce a project plan outlining the first two years of activity (including a communication strategy), staffing and funding needs to further develop the LVETF;
- vi. Produce a preliminary fund raising strategy based on the TOR developed.

b) Output 2: Partner state political endorsement and ownership to further develop LVETF (early 2012)

- i. Obtain political endorsement for the further development of the LVETF as a financing mechanism for the environment in Lake Victoria basin on the basis of the profile and outcome of the consultancy;
- ii. Select and establish the group of champions from EAC and LVBC secretariats, Member state representatives, development partners, stakeholders from the LVB (Development and environment NGOs, private sector reps, key community representatives, etc);
- iii. Select and informally organise a wider group of financial, technical and legal and political resource providers as an advisory group that are kept up to date and involved in the process regularly; and
- iv. Develop together with the champions a proposal for the development and start up of the LVETF; the objectives and activities (can be deducted from the profile and the consultancy report); the governance of the start up phase through a steering committee, terms of reference and composition; communications strategy to ensure stakeholder engagement and information as well as show the transparency of the process of developing and establishing the LVETF budget.

c) Output 3: Development partners finance the development and the start up phase of LVETF (mid 2012)

- i. Fund-raise with the development partners to finance the start up phase of the LVETF; and

- ii. Insert an activity within the next phase of LVEMP to set up the LVETF.

d) Output 4: Stakeholder endorsement and ownership for the development of the LVETF (mid - end 2012)

- i. Hold a stakeholder meeting or workshop within the basin inviting all relevant stakeholders: EAC, LVBC, Member state representatives, development partners, stakeholders from the LVB like Development and environment NGOs, private sector, communities representatives;
- ii. Draft objectives of the meeting;
- iii. Inform all stakeholders on the idea of the LVETF and give them a basic understanding of Environmental funds;
- iv. Present and debate the objectives and the preferred institutional nature of the LVETF in light of the findings of the consultancy and the above activities;
- v. Propose the setting up of a steering committee with a draft TOR, Set composition, function and tasks and authority etc; and steering committee can be constructed from champion group, advisory group and from interested and valuable individuals selected in the process;
- vi. Debate the action plan to take the LVETF forward;
- vii. Get endorsement statement from all stakeholders at the conclusion of the meeting;
- viii. Employ the communications strategy to ensure that the development process is transparently communicated; and
- ix. Launch a website for the LVETF as a key communications channel and repository of intermediate documents.

e) Output 5: Institutional and legal set up for the LVETF specifying alignment with EAC/LVBC institutions and policies as well as strong stakeholder involvement (end 2012)

- i. Assess the three options on their merits by consulting widely with the member states, various others stakeholders, other Environmental funds and experts; and
- ii. Generate the best option possible and draft the preliminary legal language for it.

f) Output 6: Business plan for the LVETF (multi year expenses vs. income) (early 2013)

- i. Execute the Terms of Reference for the development of the fundraising strategy following the TOR in Annex 6 of the report;
- ii. Work with key financial resource providers to get the commitment to finance the operations, sinking or revolving fund of the LVETF;
- iii. Establish the objectives and proposition of the LVETF as put forward in the profile and endorsed by the stakeholder meeting and member states governments;
- iv. Insert the preferred institutional and legal language;
- v. Produce a detailed Organogram, staffing TORs and a preliminary operational strategy of the LVETF;
- vi. Do five and more general ten year budgets for the operational costs of the LVETF;
- vii. Do five and more general ten year budgets for the income on the basis of the fund raising strategy and commitments from funders;
- viii. Do a five year more general cash flow analysis to show the solvency and liquidity of the LVETF; and
- ix. Show ten year trend of disbursement of funding to environmental activities in the LVBC.

g) Output 7: Stakeholder and political endorsement for the institutional and legal set up and the business plan (mid to end 2013)

- i. Lobby governments and get their endorsement for the preferred institutional set up of LVETF and use business plan and fundraising strategy as argumentation;
- ii. Establish Letters of Intent or other written commitments with governments and other key stakeholders to ensure endorsement, institutional and legal set up as well as the business plan;
- iii. Communicate to the various stakeholders widely about the progress on the LVETF and successes in garnering political and financial support, translate the business plan in clear messages showing progress; and
- iv. Organise a basin wide stakeholder process to present the progress on the LVETF and get their endorsement.

h) Output 8: Funds for environmental activities secured from Partner States, development partners, private sector and/or foundations, strategy for PES and environmental markets in place (end 2013 to early 2014)

- i. Debate with partner state governments on potential sources of funding and if possible secure commitments from Partner States on collection and transfer of levy's, fees to the LVETF;
- ii. Connect with the SIDA, FINNIDA, NORAD, USAID, GEF, FFEM and KfW and other development partners to understand their willingness to provide funding in the form of an endowment, sinking funds or funding from debt for nature swaps to the LVETF;
- iii. Connect with the private sector to open communications about providing funding to the LVETF and explain the benefits of LVETF to them;

- iv. Develop central expertise on environmental markets and inventorise existing Polluter pay programmes, Payment for watershed programmes as well as REDD+ and other carbon project initiatives;
- v. Liaise with and invest in Mt Elgon and Mau projects to stimulate the development of Payments for environmental services projects, position LVETF as a broker in the process; and
- vi. Use existing NGO and development partner networks to inventorise the possibilities to obtain funding from foundations.

i) Output 9: LVETF legally and institutionally established (early 2014)

- i. start the process for the legal establishment of the LVETF institution as defined by the endorsed business plan;
- ii. Finalise the legal documents and get them vetted by the steering committee and key stakeholders;
- iii. Establish the LVETF legally; and
- iv. Put in place governance structure (board or council).

j) Output 10: LVETF executive director and key financial administration, fundraising, communications and technical staff recruited (mid 2014)

- i. Recruit the Executive Director and subsequently other staff per business plan on the basis of TORs;
- ii. Create an office for example at the LVBC secretariat headquarters; and
- iii. Develop key procedures for the short term operation of the LVETF.

k) Output 11: Key manuals and procedures for the LVETF in place (operations, finance and admin, project management (end 2014)

- i. Produce various manuals and procedures for the operations manual, the finance and administration and project selection criteria, management and disbursement, investment policy;
- ii. Vet procedures with Board or Council;
- iii. Operationalise procedures; and
- iv. Put in place relevant committees to support the board or council.

l) Output 12: Funds for environmental activities in LVB contracted and disbursed (mid 2015)

- i. Put out first call for proposals for environmental activities in LVB;
- ii. Select first batch of projects; and
- iii. Fund the first batch of environmental management projects in LVB.

m) Output 13: Communication strategy for the LVETF

Once the formation of the fund has been approved and key manuals are being produced the following actions are recommended:

- i. The LVBC to sponsor a radio, TV documentary and newspaper articles on the need for a fund, explaining the threats and need for concerted regional action and the responsibilities of the governments to support it;
- ii. Create an interactive website with popular and scientific information and regularly update it with information on current and emerging events, particularly threats and major achievements;
- iii. Sponsor a discussion panel of regional and international personalities to articulate the importance of the fund;

- iv. Organize a donor conference, as a side even to a major EAC political event, with Heads of State present, to give publicity to the fund and raise the political visibility of the fund;
- v. Draw up a list of potential donors and provide them with newsletters and progress reports on activities in the basin which demonstrate commitment to environmental management; and
- vi. Create and sponsor an annual award for journalistic articles within and use that to build and association of journalists to write on environment and development issues in LVBC.

6.7 GENERAL CONCLUSIONS

- a) The legislative frameworks of a number of Partner States in the Lake Victoria Basin are conducive for the establishment of a Regional Trust Fund namely Lake Victoria Environmental Trust Fund (LVETF);
- b) Those countries that have not developed trust legislations, such as Rwanda and Burundi are not limited or disadvantaged, since will still benefit from such a fund, housed within the LVBC or in one of the other countries with such legislation. In fact, by being a member and benefitting from such a fund, is in itself a good incentive to generate the necessary political support for their own similar pieces of legislation;
- c) As an innovative financing mechanism, the concept of Payment for Ecosystem Services has great potential to be mainstreamed in East Africa given the natural resources (water, forests, fisheries, aesthetic landscapes). In fact the development of markets for such services could improve given the fast growing urban populations that still draw a number of benefits from natural systems such as watersheds, national parks;

- d) The development of PES markets is a potentially powerful incentive for improved environmental stewardship particularly among rural populations who largely depend on natural resources;
- e) Based on the views expressed by stakeholders and going by the cost estimates associated with each option, it seems that Option 1, which recommends the nesting of LVETF within an existing institution such as the LVBC, appears the most feasible. The second option is also feasible but the cost estimates are significantly higher than the first option;
- f) So far the threats that have been described and the justification further provide do make a compelling case for quick action. As an immediate follow-up, it is important for the concept of LVETF to generate the necessary political legitimacy within the EAC as a stepping stone to its eventual launching; and
- g) The LVBC would be well served if it creates or establishes a small but nimble ‘donor liaison’ and fund raising unit that could support LVETF and other development funds. In essence the LVBC needs to rapidly build its capacity in PES, Trust Funds and Fund Raising in order to manage the iconic basin of which Lake Victoria is the centerpiece.

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