

JAMAICA'S COMMITMENT TO THE CONSERVATION AND MANAGEMENT OF NATURAL RESOURCES

...ten years in retrospect

A DISCUSSION PAPER

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INTRODUCTION

Over the last decade the Jamaican Government has embarked on a number of initiatives geared solely towards the proper management conservation and protection of the natural resources within the context of sustainable development. The Ministry of Land and the Environment is the Ministry with the executive mandate to govern Jamaica's natural environment. The most recent initiative of the government was recognition that urban and rural planning must be done within the context of the wider thrust of environmental management, and to this end government has established the National Environment and Planning Agency. This new agency represents an amalgamation of the Natural Resources Conservation Authority which has a statutory mandate for the conservation,

protection and proper management of the natural resources of Jamaica; the Town and Country Planning Authority which has the statutory mandate to ensure the orderly planning of Jamaica and the Land Development and Utilization Commission with a statutory mandate to ensure that prime agricultural lands are kept in agricultural production in the interests of *inter alia* food security and self sustainability.

This report seeks to highlight some of the major initiatives undertaken during the past ten (10) years.

LEGISLATIVE INITIATIVES

There is a large body of statutes that seek to address environmental protection, most being sector based. Understandably, some are old but are mentioned here because they have undergone some level of revision during the last decade.

The Natural Resources Conservation Authority Act, 1991

The Natural Resources Conservation Authority Act provides for the management, conservation and protection of the natural resources of Jamaica. The Act establishes the Natural Resources Conservation Authority, a body of persons appointed by the Minister of the Environment. The functions of the Authority include the taking of such steps that are necessary to ensure the effective management of the physical environment of Jamaica; and the management of marine parks and protected areas. Section 9 of the Act creates a Ministerial discretion to declare parts of or the entire island a 'prescribed area', in which specified activities require a permit, and for which activities an environmental impact assessment may be required. The Natural Resources (Prescribed Areas) (Prohibition of Categories of Enterprise, Construction and Development) Order, 1996 and the Permits & Licensing Regulations was passed pursuant to section 9 of the Natural Resources Conservation Authority Act, 1991. The Order provides that the entire island of Jamaica is a prescribed area and lists specified categories of enterprise, construction or development that require a permit.

The Act also addresses Sewage and Trade Effluent discharges as well as air emissions. **Regulations are being developed to specifically address these sources of pollution. Under the new regulations the polluter pays principle will be incorporated.**

The Endangered Species (Conservation and Regulation of Trade) Act, 2000

This Act was promulgated to ensure the codification of Jamaica's obligations under the Convention for the International Trade in Endangered Species of Wild Fauna and Flora. The Endangered Species Act governs international and domestic trade in endangered species in and from Jamaica. The Act defines the functions of a Management Authority and Scientific Authority. The Natural Resources Conservation Authority is the Management Authority. The functions of the Management Authority include the grant of permits and certificates for the purpose of international trade, the determination of national quotas and the monitoring the trade in endangered species. A Scientific Authority is appointed under the Act to determine whether a species is at risk, vulnerable or threatened, to advise on trade matters and to monitor the grant of permits and certificates in respect of limitations to maintain species and to ensure sustained survival.

The Beach Control Act, 1956

This is an old but novel piece of legislation that was passed to ensure the proper management of Jamaica's coastal and marine resources by a system of licencing of activities on the foreshore and the floor of the sea. The Act also addresses other issues such as access to the shoreline, and other rights associated with fishing and public recreation, as well as the establishment of marine protected areas. It is currently undergoing substantive review to address more contemporary legal and management issues including the expansion of the Judges discretion on sentencing, an increase in fines and the introduction of valuing natural resources based on defined criteria.

The Wildlife Protection Act

This Act is primarily concerned with the protection of specified species of fauna. This Act has also undergone review particularly in the area of increased fines and the number of animals now enjoying protected status. Further amendments are being undertaken to address a variety of other issues relating to the management and conservation of these natural resources, and the inclusion of flora.

The Watersheds Protection Act

The Watershed Protection Act was promulgated in 1963 .The purpose of this Act is to provide for the protection of watersheds and areas adjoining watersheds and promote the conservation of water resources. The entire island however is considered to be one watershed, but for management purposes is divided into smaller units . The Act makes provision for conservation of watersheds through the implementation of provisional improvement schemes whereby soil conservation practices are carried out on land. A Watershed Policy is now under consideration with a view to taking watershed management to another level of greater effectiveness. This includes a review of the Act and the development of regulations.

The Natural Resources (Marine Parks) Regulations,1992

These Regulations were enacted pursuant to Section 38 of the Natural Resources Conservation Authority Act. The object of the regulations is the establishment of marine protected areas , primarily for the conservation of marine resources. The Montego Bay Marine Park, the Negril Marine Park and the Ocho Rios Marine Park, are the three marine parks to which these regulations apply.

The Natural Resources Conservation (Blue and John Crow Mountains) National Parks Regulations

This is the first declared national park in Jamaica and was so declared pursuant to Section 5 of the Natural Resources Conservation Authority Act. The regulations speak to the establishment of a parks management system.

The Fishing Industry Act

The object of the Act is to manage the fisheries resources of Jamaica. The Act, however, has not kept pace with the evolution of fishing and the attendant resource management issues, and in this regard, a new Act which will provide an institutional framework for the management, planning, development and conservation of fisheries resources in Jamaica is scheduled to be passed soon.

The Forest Act, 1995

This Act addresses the sustainable management of forests on lands in the possession of the crown and vests management responsibility in the Conservator of Forests. The Act provides for the establishment of forests reserves, the establishment of protected areas, the promotion of forestry research areas, reforestation initiatives and the preparation of a forestry management plan. The latter has been prepared and is being implemented.

The National Solid Waste Management Act, 2001

This recent enactment creates the National Solid Waste Management Authority and mandates *inter alia* that the Authority take such steps as are necessary for the effective management of solid waste in Jamaica in order to safeguard public health as well as the collection, transportation, re-use and re-cycling of waste in an environmentally sound manner. The Act establishes a licensing regime for operators of solid waste management facilities, and the operators of collection and transfer services.

POLICY INITIATIVES

The following are some of the policies and draft proposals related to the management of natural resources and the promotion of sustainable development in Jamaica.

Mariculture Draft Policy and Regulation.

The Draft Policy sees mariculture as an opportunity to provide a sustainable supplement or an alternative to marine capture fishery. The policy has undergone some level of stakeholder consultation, and the sentiment at this time is that the Fisheries Division in the Ministry of Agriculture should implement the policy.

Towards A Beach Policy For Jamaica (A policy for the Use of the Foreshore and the Floor of the Sea), November 2000

Though the policy specifically addresses the controversial issue of beach access, it addresses issues relating to oil pollution, sewage pollution, solid waste disposal, beach erosion, coastal water quality, mariculture and wild life protection. The document has undergone a process of public consultation and is now with the Ministry of land and Environment for completion of the policy development process.

Coral Reef Protection And Preservation Policy And Regulation, October 1997 (Natural Resources Conservation Authority) (Draft)

The policy recognizes that coral reefs are among the earth's most biologically diverse, oldest and species rich ecosystems. The aim of this policy is to ensure the conservation of coral reefs in order to sustain their ecological and socio-economic functions. Also associated with this initiative is the Jamaica Coral Reef Action Plan which builds on the International Coral Reef Initiative 'Call to Action; Framework for Action' agreed to at Dumaguete City, Philippines May 25 to June 2, 1995., and the "Tropical Americas' Agenda for Action, formulated in Montego Bay, July 5-8, 1995. Of the many steps listed, chief among them are those geared towards Integrated Coastal Zone Management.

Policy for the National System of Protected Areas

The Policy formulated pursuant to Section 5 of the Natural Resources Conservation Authority Act, describes the protected areas system as having a common underlying foundation of environmental protection purposes, and a standardized approach to planning and management. The goals of the protected areas system are expressed as: economic development, and environmental conservation.

The Wetlands Policy Natural Resources Conservation Authority (Draft)

This document attempts to set out a management strategy for the protection of wetlands. It identifies five goals which are aimed at the sustainable use of wetlands. These goals include the development of guidelines regarding any development of wetlands, and the preservation of the biological diversity of these areas.

Policy on Sea Grass Beds

The Policy recognizes the role of sea grass beds in the conservation and preservation of marine ecosystems and the overall aim is to promote the conservation of Sea grasses in order to sustain their important role in the present

and future well being of all. The goals of the policy include the control of practices which result in the destruction of sea grasses.

Land Administration and Management Project (LAMP) Government of Jamaica

The Land Administration and Management Project (LAMP) was established to promote the efficient administration and management of land resources in Jamaica in an integrated and sustainable manner. The project recognizes that land which includes surface, aquatic, atmospheric and subsurface area is the primary element of the natural and man made environment and establishes the framework to enhance the efficient planning, management, development and use of land .

National Land Policy

This policy was formulated in recognition of the fact that whilst land is critical to many aspects of human life, this finite resource must be managed in a sustainable way. It establishes a framework for the proper planning, management and development of the use of land, and in so doing recognizes the overlapping interests and the need to balance land use management and development with agriculture, mining, tourism and natural resource management.

National Industrial Policy

This policy was developed against a backdrop of a changing global economy and the need for Jamaica to rise to the attendant challenges, in this context to implement its stated commitment to a market led economy. The policy however recognizes that industrialization carries with it economic and social implications, that industrial activity may necessitate the exploitation of natural resources, but that the pursuit of economic development cannot be in isolation of the need for environmental protection and management. The sustainable use and management of the environment becomes a critical component of the policy.

Policy on Environmental Management Systems

The objectives of the policy are *inter alia* to articulate the government's commitment to the promotion and use of Environmental Management Systems; establish the roles of the government and private sector and communities in the use of EMS and to put in place the necessary institutional, regulatory and promotional measures to ensure successful uptake of EMS. The policy is now undergoing public consultation.

International Environmental Responsibilities

The development of international environmental law and initiatives has been catalytic in the development of domestic legislation. The Ministry of Land and the Environment and the Natural Resources Conservation Authority are the pivotal agencies in ensuring Jamaica's readiness for the ratification of these international agreements. Some of these agreements are outlined below.

Convention on International Trade in Endangered Species of Wild Flora and Fauna

Jamaica's obligations under this convention are now addressed by The Endangered Species (Conservation And Regulation Of Trade) Act, 2000

The Vienna Convention on the Protection of the Ozone Layer)

Montreal Protocol (Under The Vienna Convention on the Protection of the Ozone Layer)

Jamaica became a party to the Montreal Protocol on March 31, 1993. The Convention requires State Parties to gradually phase out the production and consumption of CFC's and other ozone depleting substances. Jamaica commenced implementation of its "country program" in March 1997. The Country Program sets out the projects that need to be implemented to achieve the phase out under the Protocol.

The Natural Resources Conservation Authority is the lead agency implementing the Montreal Protocol. A National Ozone Commission was set up in 1995. The Commission was formed to start Jamaica's country program and give guidance to the National Ozone Unit housed at the Natural Resources Conservation Authority. The Commission is comprised of representatives from the Ministry of Land & the Environment, Bureau of Standards, the Air Conditioning Refrigeration and Ventilating Association, the Ministry of Labour, the University of the West Indies, Department of Chemistry and a representative from the private sector. Three Steering committees have been established under the Commission, the Halon Steering Committee, the Freeze Committee and a newly formed Legal Committee with representatives from government and the industry. A decision has been taken by the Commission to implement the Convention by an overarching Act entitled the Ozone Act. Drafting instructions are being prepared for this Act.

BASEL Convention on the Transboundary Movement of Hazardous Waste and Their Disposal

Jamaica is not yet a party to the Basel Convention. Regulations have however been drafted under s. 38(1)(d) of the Natural Resources Conservation Authority Act for implementation. Jamaica has a policy of not allowing the importation of hazardous waste into the island. Hazardous waste is currently controlled under the NRCA Permit & Licensing Regulations 1996 in terms of its storage, disposal and transportation.

Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention).

Jamaica became a party to the Cartagena Convention on May 1, 1987. The Cartagena Convention provides obligations on States Parties to prevent, control and reduce pollution of the Convention Area by discharges from ships, aircraft's, man-made structures at sea, coastal disposal or discharges emanating from

rivers, estuaries, coastal establishments, outfall structures, land based sources, exploration of the seabed and discharges from the atmosphere. The Convention requires measures to be taken to protect rare and fragile ecosystems as well as habitats of endangered species and to establish protected areas. There are also obligations to co-operate in pollution emergencies, develop contingency plans, and to institute technical and other measures to assist in the planning of major development projects and ensure the assessment of the potential effects of such projects on marine areas, particularly coastal areas especially to ensure the prevention of pollution of the Convention area. There are three protocols under the convention that are of critical interest to Jamaica. These are the Protocol on Specially Protected Areas and Wildlife (SPAW Protocol)), the Oil Spills Protocol, and the Protocol on Land Based Sources of Marine Pollution.

Protocol on Specially Protected Areas and Wildlife (SPAW Protocol)

Jamaica signed the SPAW Protocol on January 18, 1990. This Convention addresses *inter alia* the sustainable use of biological resources and recognizes the need for international cooperation in accessing Natural Resources. SPAW provides obligations on State Parties to establish protected areas and management protection measures including buffer zones. It includes obligations for countries to put in place national measures for the protection of wild flora and fauna, including identification of species, establishment of recovery plans, regulation of the introduction of non-indigenous or genetically altered species and establish provisions for the conduct of environmental impact assessments. There are also provisions requiring the control of wastes into nearby waters in parks from land based sources and ships.

Though Jamaica has not yet ratified the Protocol due to need to ensure the development of domestic legislation, we are confident that as a nation we have done much to advance our obligations under the Protocol. The National Environment and Planning Agency has adopted a comprehensive holistic approach to the development of legislation, particularly those relating to

Jamaica's international environmental obligations ratification. The approach includes looking at resource management in the context of the SPAW Protocol, the Biodiversity Convention, and the Ramsar Convention and to develop

legislation along this line, which would also incorporate some issues contained in existing legislation.

Protocol on Land Based Sources of Marine Pollution.

In 1999, Jamaica indicated its intention to ratify this protocol, but has not yet done so, as ratification depends on the promulgation of domestic legislation to give effect to the state's obligations under the protocol. To some extent, the sewage effluent regulations mentioned above will satisfy some of the requirements of Annex 1, but a comprehensive review of the legislative requirements is necessary.

The Oil Spill Protocol

Obligations under this protocol are being addressed primarily through administrative arrangements. There is for example an inter agency mechanism for responding to oil spills. There is also a draft bill on Oil Pollution to be administered by the Maritime Authority of Jamaica.

Convention on Biological Diversity

Jamaica has ratified this convention. A strategy and action plan has been developed and the process of public consultation has been completed. The Bio-Safety Protocol under this Convention is now being addressed.

Bio-Safety Protocol to the Convention on Biological Diversity

This protocol is currently being addressed by the National Commission on Science and Technology, the Ministry of Land and Environment and NEPA. At present there is a **Draft Policy on Bioprospecting** in Jamaica. Implementation of the Protocol will be within the jurisdiction of the National Environment and

Planning Agency. A project is now being undertaken to look at the legal and administrative framework to implement the protocol.

Ramsar Convention on the Protection of Wetlands of international Importance and Waterfowl.

This Convention seeks to protect wetlands and recognizes the importance of this eco-system as a habitat for waterfowl. To date one Ramsar Site has been declared i.e. The Black River Wetlands. Regulations are already in place, which control the cutting, clearing and reclamation of wetlands.

CONCLUSION

The Government of Jamaica is committed to the cause of sustainable development and in keeping with our national and international mandates, the country will continue to respond to this cause.

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