

INTEGRATED MANAGEMENT OF ZAMBEZI / CHOBE RIVER SYSTEM - TRANSBOUNDARY FISHERY RESOURCE, NAMIBIA / ZAMBIA / BOTSWANA

Norad project no.: GLO-05/312-11

WWF Norway project no.:5012

WWF project no.: 9F0792

Developing community-based fish management in the Zambezi-Chobe river systems in Caprivi, Namibia, November 2008

Report 1: Findings and Recommendations for devolving management authority to local communities

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Report 2: Findings and Recommendations for implementing a local fisheries Community-based Natural Resource Management (CBNRM) initiative



Kasika Conservancy signboard. Photo: O. Jones



Lisikili Fisheries Committee meeting. Photo: O. Jones.

by: **Brian T.B. Jones**

Technical Report no. MFMR/NNF/WWF/Phase I/1



Developing community-based fish management in the Zambezi-Chobe river systems in Caprivi, Namibia.

Report 1: Findings and Recommendations for devolving management authority to local communities

For submission to the Ministry of Fisheries and Marine Resources

Final Report
November 2008

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Acknowledgements

This report has been produced as part of the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project. The project is an initiative of the Ministry of Fisheries and Marine Resources (MFMR) supported by the World Wide Fund for Nature (WWF) and the Namibia Nature Foundation (NNF). The ideas and proposals contained in this report are a combination of the author's and those of various people interviewed during the course of the consultancy. Particular thanks are due to the staff of the MFMR, all those who have contributed in different ways and to Dr Ben van der Waal for his guidance during the field trip in August 2008.

Photograph on Title Page: Mosquito nets spanned across the Chobe River under the bridge at Ngoma by Olga Jones.

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List of frequently used acronyms and abbreviations

CBFM	Community-based Fisheries Management
CBNRM	Community-based Natural Resource Management
FMC	Fisheries Management Committee
GMA	Game Management Area (Zambia)
IFC	Inland Fisheries Management Committee
IRDNC	Integrated Rural Development and Nature Conservation
MFMR	Ministry of Fisheries and Marine Resources (Namibia)
NGO	Non-governmental Organisation
NNF	Namibia Nature Foundation

Executive Summary

This report has been commissioned by the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project. The project is an initiative of the Ministry of Fisheries and Marine Resources (MFMR) supported by the World Wide Fund for Nature (WWF) and the Namibia Nature Foundation (NNF).

This report considers how fisheries management in the Zambezi/Chobe river systems can be devolved to the lowest appropriate levels; how fisheries management can be aligned with Community-based Natural Resource Management (CBNRM) approaches in other sectors and the advantages of introducing a community-based approach to fisheries management. The report assesses the compatibility of Namibian and Zambian fisheries legislation in relation to the promotion of the community-based fisheries management (CBFM). It analyses how CBFM can be achieved in the Zambezi/Chobe river systems through the existing provisions of the Inland Fisheries Resources Act of 2003 and suggests how these provisions could be strengthened through the development of new regulations that would be relevant to the Caprivi and other areas where similar conditions apply. A second report commissioned alongside this one makes recommendations for implementing a local CBFM initiative that is integrated with existing CBNRM initiatives in the Caprivi region². The full Terms of Reference (TOR) for both reports are provided in Annex 5.

There is unsustainable use of the inland fisheries resources in the Zambezi/Chobe river system with widespread use of illegal fishing gear and methods. The Ministry of Fisheries and Marine Resources (MFMR) has limited enforcement capacity and there is considerable hostility towards local fisheries inspectors tasked with enforcing the law. The system of issuing fishing licences through one official in the Regional Council is impractical for both local fishermen and for sport anglers. It creates considerable anger and hostility as fishermen and anglers have to travel large distances to apply for licences often only to find the licence office closed or the licensing officer unavailable. Many local fishermen say they are unable to afford to travel to the Regional Council offices to obtain licences.

These problems could be addressed through the introduction of a community-based fisheries management approach that devolves rights to local communities over the fisheries resources. Community-based approaches to wildlife and tourism management have proven successful in Namibia through the establishment of communal area conservancies and conservancies provide a useful vehicle through which community-based fisheries management could be implemented. Cabinet has endorsed the devolution of rights over natural resources to resource users at the local level. International experience also indicates that community-based approaches and co-management of inland fisheries can be successful if the appropriate conditions are put in place, including the devolution of a significant degree of decision-making authority to the local level. Such devolution is the stated policy of the Government of Namibia and conservancies in Caprivi are requesting to be given authority over fisheries management.

A CBFM approach would benefit the fisheries resource by leading to more sustainable use through local management suited to local conditions carried out by people living close to the resource. Better management should lead to more fish being available which will benefit local communities who will also increase their benefits from the resource through conservancies linking tourism income from sport anglers to fisheries management. The

² This second report is titled: "Developing community-based fish management in the Zambezi/Chobe river systems in Caprivi, Namibia: Findings and recommendations for implementing a local fisheries Community-based Natural Resource Management initiative".

MFMR would benefit through reduced hostility towards fisheries inspectors, better cooperation with local communities and more efficient use of its own resources.

A review of the Inland Fisheries Resources Act of 2003 shows that there is sufficient compatibility with Zambian legislation for some joint management of fisheries on the Zambezi river to take place between Namibian and Zambian fishermen. However, the Zambian legislation goes much further in promoting CBFM than the Namibian law. The Namibian legislation makes provision for nominees of a traditional authority to be appointed as fisheries inspectors and for traditional authorities to request that a local body of water can be declared as a fisheries reserve. There is provision for regulations that would enable the establishment of inland fisheries committees (IFCs). However, as yet no such regulations have been promulgated. The following are recommendations for implementing CBFM under the **existing** legislation:

As provided for in the Act **regulations should be drafted that enable the establishment of inland fisheries committees and which define their powers and functions:**

- The powers and functions of the committees should include prevention of illegal fishing and fishing methods, powers to confiscate illegal nets, resource monitoring, management of fisheries reserves and reporting to MFMR.
- The regulations should be framed in such a way as to enable communities to form their own committees and apply to the MFMR for promulgation and should be flexible enough to allow a community to use an existing institution such as a conservancy to be established as an inland fisheries committee.
- The regulations should address issues of who the committees should represent and how they are accountable to local resource users/communities, as well as financing, financial management, role of traditional leaders, and the need for a constitution.

Specific proposals for regulations that would address the above issues are contained in Annex 2.

In addition, MFMR should revise the legislation such that Regional Councils should be able to use local bodies such as conservancies or sub-khutas to issue licences and collect licence fees. The conservancy or sub-khuta should be able to keep 75% of this fee for management of the fish resource. Where appropriate lodges should also be able to sell licences on behalf of the conservancy.

The following implementation steps need to be taken to ensure that the current legislation can be appropriately applied to promote community-based fish management:

- 1) In order to take advantage of the existing legal powers, capacity, and infrastructure of conservancies, **the recognition of conservancies as inland fisheries management committees should be actively promoted by the MFMR.**
- 2) The **conservancies should be encouraged to establish local fisheries management sub-committees** at appropriate levels (such as sub-khuta) which are responsible for local management.
- 3) Where a fisheries reserve is thought to be a useful management tool by the local community, **the conservancy as the inland fisheries management committee should request the declaration of a fisheries reserve to the traditional authority which should make the request to the MFMR.** This request should be before the regulations are finalised for the establishment of the inland fisheries committee.
- 4) **MFMR should ensure that regulations for the establishment of the inland fisheries committee include provision for management of the fisheries reserve.**

- 5) Before the regulations are prepared for establishment of the committee **the conservancy** as the inland fisheries committee and acting on the advice of its fishing sub-committee(s) **should provide nominations of persons who should be local fish guards to the traditional authority which should nominate these persons for appointment by MFMR as fisheries inspectors.**
- 6) Unless there are good grounds for objecting, the MFMR should accept these nominations. **Wherever possible means should be found for the conservancy/inland fishing committee to finance the payment of the fish guards/inspectors.**

The report makes the following recommendations for **amending** the existing legislation in order to provide a more solid foundation for CBFM through the granting of stronger rights to local communities:

- **The legislation should be revised so that provision is made for inland fisheries committees to be formed and provided with strong and secure management rights over fisheries.**
- The legislation should adopt the approach of the Nature Conservation Amendment Act of 1996 and the Forest Act of 2001 which provides rights over resources to communities that meet certain conditions.
- The legislation should spell out these conditions which should include the formation of an association of defined community members represented by an elected committee, governed by a constitution, and operating within a defined geographical boundary.
- The legislation should enable any existing institution, such as a conservancy, that meets these conditions to be recognised as an inland fisheries committee.
- **The legislation should clearly spell out the management rights of the inland fisheries committee which should include the following:**
 - (i) **The right to appoint fish guards who will be appointed as fisheries inspectors**
 - (ii) **Through the community fish guards/inspectors to enforce the legal provisions regarding methods of fishing and fishing without the required licence.**
 - (iii) **The right to set harvest limits and declare closed seasons.**
 - (iv) **The right to request the declaration of fish reserves and manage these reserves.**
 - (v) **The right to issue all fishing licences including recreational licences, to collect licence fees and to retain 75% of the income from these fees.**
 - (vi) **The right to carry out inspections and confiscate of illegal fishing gear and undersize fish.**

Specific proposals for amendments to the legislation are contained in Annex 3.

1. Introduction

1.1 Background

This report has been commissioned by the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project. The goal of the project is:

“The shared Zambezi/Chobe River fisheries resources managed sustainably through transboundary coordination and collaboration after the introduction of fully integrated fishery management systems”.

The project purpose is:

“By mid 2009 alternative community fishery management practices piloted and tested and these contribute to a fully integrated management system for subsistence, semi-commercial, and sport fisheries that will provide optimal benefits to all stakeholders who are reliant on this valuable resource”.

The project is an initiative of the Ministry of Fisheries and Marine Resources (MFMR) supported by the World Wide Fund for Nature (WWF) and the Namibia Nature Foundation (NNF). It is funded by NORAD and WWF-Norway, with match funding from the MFMR.

This report considers how fisheries management in the Zambezi/Chobe river systems can be devolved to the lowest appropriate levels; how fisheries management can be aligned with Community-based Natural Resource Management (CBNRM) approaches in other sectors and the advantages of introducing a community-based approach to fisheries management. The report assesses the compatibility of Namibian and Zambian fisheries legislation in relation to the promotion of the community-based fisheries management (CBFM). It analyses how CBFM can be achieved in the Zambezi/Chobe rivers systems through the existing provisions of the Inland Fisheries Resources Act of 2003 and suggests how these provisions could be strengthened. A second report commissioned alongside this one makes recommendations for implementing a local CBFM initiative that is integrated with existing CBNRM initiatives in the Caprivi region³. The full Terms of Reference (TOR) for both reports are provided in Annex 5.

1.2 Methodology

A field visit to the eastern Caprivi was undertaken from August 16-23. During this period meetings were held with the project coordinator, Dr Ben van der Waal, officials of the MFMR, traditional authorities and local fishermen. Sites were visited that have potential for developing CBFM approaches that could be integrated with community-based management of other renewable natural resources. A list of

³ This second report is titled: “Developing community-based fish management in the Zambezi/Chobe river systems in Caprivi, Namibia: Findings and recommendations for implementing a local fisheries Community-based Natural Resource Management initiative”.

meetings held and persons consulted is provided as Annex 3. A review was carried out of the Zambian and Namibian inland fisheries legislation to assess their compatibility and how transboundary fisheries management might take place in terms of the legislation. The Namibian legislation was reviewed to assess the extent to which management authority for fisheries can be devolved to the lowest appropriate levels. Other relevant documents were also reviewed.

2. Situation Analysis

This section provides a summary of the existing situation and challenges regarding fisheries management in the Zambezi/Chobe river systems.

2.1 Current situation

Legislation

Namibia

The Inland Fisheries Resources Act (No. 1 of 2003) provides for the conservation and protection of aquatic ecosystems and the sustainable development of inland fisheries resources and the control and regulation of inland fishing (GRN 2003). The following is a brief summary of the main provisions of the Act and the accompanying regulations relevant to fisheries management and promoting community-based fisheries management. A more detailed summary is provided in Annex 1.

The Act enables the Minister to determine the general policy for the conservation and utilisation of the inland fisheries resource. It provides for the flexibility to determine the policy for a particular area. This must be done in consultation with the relevant regional council, local authorities and traditional authorities.

No person may fish with a rod, reel, line and hook or net without obtaining a licence which must be available for inspection by a fisheries inspector at the place of fishing. The Minister may attach conditions to a licence regarding, bag limits, fishing gear, areas in which fishing is prohibited or restricted, closed fishing seasons, furnishing of catch reports and any other matter the Minister deems appropriate. All licensing is carried out by regional councils.

The Act provides for three main types of fishing. Commercial fishing is regulated through restrictions on net sizes and nets must be authorised by licence, marked and conform to the prescribed requirements. The fee for registration of nets is N\$50 per year. Drag netting is prohibited except in floodplains with the permission of the relevant traditional authority. Nets may not be used within 100m of a bridge, culvert or spillway when water is flowing or in a manner which obstructs more than half the width of a water course.

The provisions regarding licences and registration of nets do not apply to subsistence fisheries by means of traditional fishing gear. Subsistence fisheries are defined as “those fishing activities whose fishers regularly catch fish using traditional fishing gear for personal and household consumption and engage from time to time

in the local sale or barter of excess catch”. Traditional fishing gear is defined as “gear manufactured by the local population in an artisanal manner making use of natural materials available from the local environment”.

The third type of fishing covered by the Act is recreational fishing or sport angling. According to the regulations accompanying the Act (MFMR 2003) recreational licences are valid for one month only and cost N\$14.20 for Namibians or permanent residents and N\$28.40 a month for non-Namibians. Recreational fishermen may not use more than 2 rods and 2 lines with 2 hooks attached, are not allowed more than 10 fish of one species in one day and there are minimum sizes set for certain species. A recreational licence holder may not sell any fish caught in terms of the licence. Licences must be obtained for recreational fishing charter boats.

The Minister may declare any area of inland water to be a fisheries reserve on his/her own initiative or in response to an initiative of a regional council, local authority or traditional authority if the Minister believes that this will promote the conservation of the fisheries resource and related ecosystem. No fishing may take place in a fisheries reserve without the written permission of the Minister.

The Act does not provide explicitly for community-based fisheries. It does however enable the Minister to delegate powers to regional councils, local authorities or a person nominated by a traditional authority. The Act makes provision for regulations to be made establishing inland fisheries committees and determining their powers and functions. However, at present no such regulations have been promulgated.

Zambia

The Fisheries Act of 1974 (GoZ 1974) provides for the control and regulation of inland fisheries and provides for the establishment of fishing development committees for specific areas of water. It provides for restrictions on fishing and the licensing of fishing activities. The Fisheries Amendment Act of 2007 establishes a more comprehensive approach to localised fisheries management. It provides for the establishment of management committees for specific fisheries management areas. The Minister may declare any area of water to be a fisheries management area for the management and sustainable utilisation of such species of fish as may be specified in the order. A licence is required in order to fish in a fisheries management area. The Act prescribes the composition of the committees which must include six representatives of the local riparian fishing community and a representative of the chief.

The Amendment Act stipulates that where the fisheries management area is in a game management area (GMA), the Minister shall appoint the committee in consultation with the community resource board for that area (GoZ 2007). A community resources board is established under the Zambia Wildlife Act of 1998 (GoZ 1998) and is given management responsibility for wildlife in the GMA for which it is responsible. It also receives 50% of income from hunting within the GMA. The community resources boards in Zambia are the counterparts to communal area conservancies in Namibia although Namibian conservancies are able to retain all income from wildlife use and tourism.

The functions of a Fisheries Management Committee are to promote and develop an integrated approach to the management and sustainable utilisation of natural and fisheries resources in a fisheries management area under its jurisdiction. A committee has the power to negotiate in conjunction with the Director of Fisheries co-management agreements with industrial fishing companies operating in the fisheries management area under its jurisdiction. A committee also has the power to manage the fisheries resources under its jurisdiction, within fishing quotas specified by a fisheries management plan. Committees must develop a fisheries management plan in conjunction with the director. The plan must specify the strategies to be adopted for effective management and development of the fishery and determine fishing quotas, the amount of fish which may be harvested, and the number of fishing licences which may be issued, in respect of the fishery, in any fishing season.

A fisheries management committee must establish a fund which is to be used to enhance the economic and social well being of the local riparian community within a fisheries management area. The Minister determines the percentage of income from licence fees that the fund may receive. The Amendment Act provides for a national Fisheries and Aquaculture Development Fund which receives 50% of the monies collected from fishing and aquaculture licences and other fees payable under the Act and any funds budgeted by government for its operation. The income of the fund is used for the purposes of developing the fisheries and aquaculture sector and facilitating a community based approach to fisheries management and development.

The Amendment Act enables the Minister to make regulations establishing and regulating community based or other decentralised fisheries management and any aspect of their operation including financial management and the granting or delegation of power to any person, class or group of persons to enforce or implement regulations relating to fisheries conservation and management.

Resource use

Research carried out in the Zambezi/Chobe river systems indicates that the fish resource is under pressure from potential over-exploitation, largely because the use of the resource has been commercialised. There are indications that the pressure is on the increase and that this will have negative impacts on local communities, particularly the poor (NNF 2006). Identified problems include increased conflicts over the fisheries, a perceived decline in the fish stock, and an increase in the number of people fishing. Additionally unsustainable and illegal methods of fishing appear to be commonly used. These include drag netting, use of mosquito nets and fishing in prohibited places. While carrying out the field work for this report, people were observed fishing illegally with mosquito nets spanned across the width of the main channel of the Chobe River underneath the bridge at Ngoma.

According to a study conducted on the eastern floodplains of Caprivi, a third of households depend primarily on the fishery for subsistence and income purposes, while in Zambia fish comprises about 55% of all animal protein consumed (NNF 2006).

Recreational fishing or sport angling is also an important use of the fishery resource. There are several tourist lodges within the Zambezi/Chobe river systems some of which specialise in sport angling. Others estimate that about 20% of their business is specifically related to recreational fishing with the rest more targeted towards game and bird viewing (Oakenham, R. *pers.comm.*). Recreational fishing comprises an important part of the tourism product in Caprivi and along with other tourist activities contributes significantly to the local economy. Fishing lodges report declines in sizes and catches of key species which attract anglers and say that this is resulting in a decline in anglers visiting the area.

Licensing

Licensing is one of the main methods employed by the MFMR to control fishing and fishing methods. Only those with licences may fish legally and nets have to be registered and of a certain type for commercial fishing to be legal. Through the regulations accompanying the Inland Fisheries Resources Act as amended in 2004, the issuing of licences has been delegated to Regional Councils. In Caprivi there is only one official who has been given the role of issuing licences. This person is responsible for issuing licences to all persons fishing commercially in Caprivi and to all sport anglers.

Enforcement of legislation

There are three fisheries inspectors in Caprivi responsible for controlling fishing in more than 400 km of waters (rivers, backwaters and floodplains). The inspectors are responsible for enforcing the Inland Fisheries Resources Act and its regulations through carrying out boat patrols, land patrols, inspecting fishing gear, inspecting licences, checking on traditional methods of fishing. The inspectors have a small boat and at the time of the field visit only one working vehicle with which to carry out patrols.

Community Fishing Committees

Two fishing committees have been established in Caprivi with the support of the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project. These are based at Lisikili and at Kalimbeza in the emerging Sikunga conservancy.

The committees have been established by local fishermen and traditional leaders in order to establish some local control over the fish resource. Members of the fishing committees interviewed emphasised the need to prevent people from using illegal fishing methods so that the fish could reproduce and increase. They also emphasised the need for establishing fish reserves in which fish stocks could build up after a period of no fishing. The fishing committees hoped to be able to appoint fish guards in order to enforce government and local fishing rules. The committees have been established with the support of the traditional authorities.

The committees have a vision of managing fish resources at the local level where community members are able to police each other and through the authority of the traditional leadership. They also see the need to link fish management with the management of other resources such as wildlife in conservancies and forests in community forests. They believe there is potential to develop tourism in their areas based on sport angling and to benefit from existing tourism lodges that depend mostly on sport angling.

Existing CBNRM initiatives in other sectors

There are two main CBNRM initiatives in Caprivi that have been established under government legislation and which are being implemented by local communities, conservancies and community forests.

Conservancies

Conservancies are established under the Nature Conservation Amendment Act of 1996 (Act 5 of 1996) which amends the Nature Conservation Ordinance so that residents of communal areas can gain the same rights over wildlife and tourism as freehold farmers. According to the Act any group of persons residing on communal land may apply to the Minister of Environment and Tourism to have the area they inhabit or part of that area declared a conservancy. The Minister will declare a conservancy in the Government Gazette if (GRN 1996):

- the community applying has elected a representative committee and supplied the names of the committee members;
- the community has agreed upon a legal constitution, which provides for the sustainable management and utilisation of game in the conservancy;
- the conservancy committee has the ability to manage funds;
- the conservancy committee has an approved method for the equitable distribution to members of the community of benefits derived from the consumptive and non-consumptive use of game in the conservancy;
- the community has defined the boundaries of the geographic area of the conservancy;
- the area concerned is not subject to any lease or is not a proclaimed game reserve or nature reserve.

Regulations accompanying the Act require a conservancy committee to provide a register containing the names, identification numbers and addresses of the members of the community to be represented by the committee. The regulations also specify certain issues which must be covered by the Conservancy Constitution (MET 1996).

Once registered and gazetted, a conservancy automatically acquires the right to hunt hutable game (oryx, springbok, warthog, kudu, buffalo and bushpig) without a permit and to use other species through applying for permits. Conservancies may buy and sell game animals, engage in trophy hunting and other forms of hunting and develop tourism on their land. They retain all the income from these activities, and

use the income for operational costs, wildlife management (including paying for their own community game guards, wildlife monitoring, and addressing human-wildlife conflict) and benefits to the local community (including in some cases cash dividends per household and community projects).

There are nine registered conservancies in Caprivi of which three are on the eastern floodplains, Impalila, Kasika and Salambala.

Community forests

The Forest Act (Act No. 12 of 2001) provides for the establishment of community forests (GRN 2001). According to the Act, the Minister of Environment and Tourism may enter into a written agreement for the establishment of a community forest covering a specific area of communal land. The agreement may be with any body that the Minister believes represents the interests of the persons who have rights over that area of communal land. The agreement may only be entered into if the relevant chief or traditional authority which is authorised to grant rights over the land gives their consent. The Act requires community forests to develop management plans. An important provision in the Act is that the written agreement confers on the community forest rights, subject to the management plan, to manage and use forest produce and other natural resources, and to graze livestock.

Residents of community forests will be able to harvest forest produce and dispose of it as they wish without a licence, but in accordance with the management plan, in which harvest quotas will be set. Wood can be harvested for household fuel or for building purposes subject to the management plan. Subject to the relevant management plan, the Director of Forestry determines the quantity of forest produce for which a licence may be issued in any forest reserve or a community forest and the maximum quantity of produce that may be harvested. The management authority of a community forest may dispose of forest produce from the community forest or permit the grazing of animals, the carrying out of agricultural activity or the carrying out of any other lawful activity.

The hunting of wild animals in a classified forest (including community forests) may take place only in accordance with the management plan for the area, regardless of any authorisation that may have been issued under the Nature Conservation Ordinance (4 of 1975). The Act also provides for fire management and makes the setting of fires an offence in certain circumstances.

There are five community forests in Caprivi, two of which are on the eastern floodplains (Bukalo and Sikanjabuka).

2.2 Challenges

Harmonisation of policy, legal and operational frameworks between Namibia and Zambia

Full harmonisation of policy, legal and operational frameworks between Namibia and Zambia is an ambitious activity that will need support from both governments. In

order to achieve this, the project would need to spend a considerable amount of time and resources working with Zambian government officials as well as with MFMR officials in Namibia. As indicated above, the Zambian legislation explicitly makes provision for CBFM while the Namibian legislation needs strengthening in order to provide more explicitly for CBFM. Rather than try to effect changes in both sets of legislation at this stage, it will probably be a more effective use of time and resources to focus on the Namibian legislation to bring it more into line with the Zambian inland fisheries law with regard to CBFM.

The Key areas of compatibility are as follows:

➤ **Restrictions on fishing methods.**

One of the issues for joint fisheries management is to have the same restrictions on methods of fishing on both sides of the border along the Zambezi. The legislation makes provision for both governments to determine methods of fishing and impose restrictions and controls (see Annex 1). Dialogue between the two governments could ensure that the same restrictions apply to Namibian and Zambian fishermen.

➤ **Devolution of management authority to local level.**

This is provided for more strongly in the Zambian legislation which enables the establishment of local fisheries management committees and provides considerable detail about their functioning and powers and functions. Although the Namibian legislation does not promote community-based fish management so strongly it does provide for regulations to be made establishing inland fisheries committees at local level and for government to define their powers and functions. If these regulations are developed and promulgated it would provide considerable compatibility with the Zambian approach, particularly if the inland fisheries committees are given similar powers and functions as their Zambian counterparts. Recommendations for strengthening the CBFM provisions in the Namibian legislation are made in Section 5 and Annexes 2 and 3.

Perhaps the more difficult aspect of harmonisation is at the operational level. This requires that community-based approaches with similar fish management regimes are applied to the same area of water on both sides of the border along the Zambezi. This in turn requires cooperation between communities, governments and support agencies on both sides of the river in order to establish a co-management system for a specific area of water⁴.

Resource use and management

The current pattern of fisheries resource use in Caprivi can generally be described as “open access” i.e. fishermen have access to the resource without being subject to any management control that results in any significant restrictions on their fishing

⁴ These issues are considered in more detail in the accompanying report: “Developing community-based fish management in the Zambezi/Chobe river systems in Caprivi, Namibia: Findings and recommendations for implementing a local fisheries Community-based Natural Resource Management initiative”.

methods and activities. This is despite the rules and regulations contained in the Inland Fisheries Resources Act of 2003. As indicated above, the task of enforcing these rules and regulations is extremely difficult for the three inspectors tasked with the job and all available evidence indicates that illegal and unsustainable fishing is taking place on a large scale.

Further, there seem to be few traditional management rules that apply to fishing as carried out currently. In some areas people interviewed said there had been no need for fishing rules in the past except for a ban on the use of poison but now the fishing had been commercialised and different types of net were available there was a need for rules and controls. In some areas rights to fish in a certain area seem to be passed on from father to son and Mendelsohn and Roberts (1997) also referred to access to fishing ground being based on territorial rights.

At Impalila and Kasika the conservancies have begun to impose some control of their own. Supported by NGOs and the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project, the conservancies have included fish monitoring in the event book system originally designed for monitoring game animals and other resources. At Impalila the conservancy committee working in conjunction with the traditional authority, the police and fisheries inspectors confiscate and burn drag nets. The traditional authority also keeps a register of people with net licences.

There is a considerable challenge to develop workable management approaches and enforcement methods that ensure that fishing in the Zambezi/Chobe rivers systems is sustainable. There is considerable interest among local community leaders in developing community-based approaches based on locally developed management systems. However, such approaches cannot be properly developed without developing the regulations provided for in the Inland Fisheries Resources Act of 2003 which would legally establish inland fisheries committees and which would define their powers and functions.

Another challenge is to ensure that community-based management systems for fisheries resources and the support provided for developing these systems is integrated with other resource management systems that already exist within communities. There is already a proliferation of different sector-driven committees at community level: village development committees, constituency development committees, wildlife conservancies, community forests, water point committees, water point associations, farmers' unions etc. The development of so many different community organisations leads to overlap of functions in many cases, conflict and competition between organisations and too many demands being made on a few community leaders. The development of community-based fish management is still in its infancy in Caprivi and this provides an opportunity to ensure that it is integrated with existing community natural resource management institutions where appropriate⁵.

⁵ These issues are considered in more detail below and in the accompanying report: "Developing community-based fish management in the Zambezi/Chobe river systems in Caprivi, Namibia: Findings and recommendations for implementing a local fisheries Community-based Natural Resource Management initiative".

Licensing and enforcement

It is extremely difficult for the three inspectors to carry out law enforcement across the whole of Caprivi given the large area of water involved, particularly in years of high flood such as is currently the case. They cannot easily cover the whole area. Further, there is considerable hostility towards them and they travel together for safety, thus further reducing the area they can cover at any one time. As noted above people fish illegally very openly in public view at places such as under the bridge at Ngoma. Much illegal fishing takes place at night with drag nets but it is difficult for the inspectors to do night patrols because of safety factors.

The inspectors are expected to enforce the law regarding licences but have no control over the issuing of licences or maintaining a register of net owners. The division of functions between the regional council (issuing licences) and the inspectors (enforcing legislation) creates a number of problems. Because there is only one person in the Regional Council who issues permits at the Regional Council offices in Katima Mulilo, local commercial fishermen and sport anglers often find it extremely difficult to obtain a licence. This system is pretty much unworkable in practice. It is costly for local commercial fishermen to travel to Katima to obtain a permit and often difficult if for example they have to travel from the furthest parts of the eastern floodplain such as Impalila and Kasika. At a meeting of fishermen and fisheries inspectors at Lisikili during August 2008, local fishermen made it clear that the system did not work, caused them hardships and should be replaced by a system that enables licences to be issued locally. The same problems are true for sport anglers who arrive at a lodge in Caprivi to be told they must obtain a licence in Katima. This means driving to Katima to obtain a licence for maybe two day's fishing.

The financial costs and costs in terms of time and effort for local fishermen and sport anglers make this system hugely inefficient. It is made worse when a local fisherman or sport angler arrives in Katima to find the licensing officer is not available. The fisherman or angler then has to wait until the person returns or travel back to his place of origin and fish illegally. The result is that local fishermen and sport anglers are beginning to ignore the system and leave themselves open to arrest by the inspectors. The system is beginning to have detrimental effects on sport angling as according to reports by the fishing lodges inspectors have allegedly forced anglers off the water until they can obtain licences. This makes for an unpleasant tourism experience (which anglers have recently complained about in letters to the media) and is likely to result in a decline in the numbers of such tourists visiting Caprivi.

A major challenge is to develop a workable system of issuing licences that ensures that licences are easily available to local fishermen and sport anglers, and which removes the current frustration and anger of both local fishermen and sport anglers.

3. The case for devolving fish management to local communities

This section sets out the case for government devolving fish management to local communities with a particular focus on the Zambezi/Chobe river systems. It shows how community-based approaches are working in the wildlife and tourism sectors, considers lessons from international experience and identifies a clear demand for

change amongst communities themselves. It also considers the benefits for the resource base of adopting a community-based approach, the potential benefits for the MFMR and to communities. Lastly it considers existing government policy on community-based management.

3.1 Lessons from community-based approaches in the wildlife sector

CBNRM in Namibia evolved first in the wildlife and tourism sectors culminating in the 1996 legislation (see above) which gives rights over wildlife and tourism to communal area farmers that form a conservancy. Since the legislation was promulgated, 52 communal area communities have formed conservancies which have been registered by the Ministry of Environment and Tourism. There are several other communities that are in the process of forming conservancies.

The conservancy approach is based on providing incentives to communities to manage resources sustainably. These incentives include the provision of management rights over the wildlife which enable the communities to management decisions themselves. The rights given to communities are secure over time and entrenched in legislation, which provides communities with the confidence that they can derive benefits from their own management inputs. The rights also enable the communities to exclude outsiders from using wildlife and benefiting from tourism. This is important because it means communities can be sure that the money, time and effort they invest in wildlife management will not be wasted because some-one else can come and derive the benefits. The incentives also include the right to retain all income derived from the sustainable use of wildlife and tourism and to use the income as they wish. This is important because it sends a clear signal that the income has been *earned* by the communities' management efforts; it is not a hand out that comes from government or some other source.

The results of the conservancy approach have been well documented:

Increased wildlife

The conservancy approach is contributing to a recovery of wildlife populations across large parts of northern Namibia, in particular the north-west and north east (NACSO 2006, 2007). Not only are wildlife numbers increasing, but distributions of many rare and/or valuable species are expanding. In particular, the population growth of such endangered species as black rhino and Hartmann's zebra are well documented in north west Namibia, while elephant ranges are expanding in both the north west and north east of Namibia. Lion numbers are increasing in the north west communal areas (Stander, 2006) and anecdotal evidence based on sightings and reports of livestock losses suggests that cheetah are also increasing.

These increases in wildlife numbers and the expansion of the ranges of some species are taking place because poaching is significantly reduced in conservancies, utilisation of game animals is sustainable, habitat for wildlife is being maintained and the tolerance level of people for wildlife (even potential problem-causing species such as elephant and predators) is high. The community game guards employed by conservancies have played an important in achieving the recovery of wildlife in many areas. They act as a deterrent to poaching by local community members and are

able to uncover poaching by outsiders. They form an important link between the conservancies and Ministry of Environment officials. In areas close to national parks in Caprivi they carry out joint anti-poaching patrols. The establishment of zoned core wildlife areas in conservancies has also proven to be an important factor in local wildlife conservation. Where conservancies have left land aside for wildlife, the MET has reintroduced species that had disappeared in the past and these are now increasing in the conservancies. The monitoring of wildlife carried out by the game guards and other information gathered as part of the Event Book monitoring system provides data for decision making on resource use.

Increased income and other benefits to communities

Conservancies earn income from a variety of activities that include trophy hunting, other forms of hunting, and the sale of wildlife and from various tourism activities including joint venture lodges with private tourism companies and their own camp sites. In 2007 the total cash income to conservancies from wildlife and tourism enterprises and other sources such as interest on savings was N\$20 582 789, of which N\$11 755 391 was income to conservancy committees and 8 827 398 was wages and salaries to conservancy members (NACSO 2008).

The income to conservancy committees is used for operational costs and wildlife management and for various forms of community benefit. In Caprivi these benefits have included dividends (e.g. N\$200 per member in Kasika in 2007), improved water supply for schools, employment, game meat distribution, funeral support, development of a local market, construction of a maize storage facility, providing houses for teachers, compensation for livestock losses to predators, and protection of fields from elephants etc. In addition conservancy committee members and other community members have received training in a wide range of activities including wildlife management, financial management, running committees, enterprise development, craft making, tourism management, etc.

The conservancies usually have strong support from the traditional authorities in Caprivi and also provide financial and other support to these authorities. The conservancies usually have an office and a vehicle and paid management and administrative staff.

The conservancy approach has demonstrated that community-based approaches to natural resource management in Namibia can be successful if the right policy and legal framework is in place and sufficient initial support is provided to communities to develop their capacity to manage the wildlife, develop businesses and manage the affairs of the conservancy.

3.2 Lessons from community-based approaches in fisheries in other countries

Reforms in the way inland fisheries are managed have taken place in a number of countries around the world. These reforms have centred on trying to establish localised rules and controls over fishing methods and usually involved some form of partnership with government in a co-management approach. Research into the

effectiveness of these reforms indicates that as with community-based wildlife management in Namibia, they can be successful if the right policy and legal framework is in place and the appropriate support mechanisms are provided.

From a study of 19 cases of co-management of inland fisheries in developing countries, Allison and Badjeck (2004:33) concluded that “the existence of a significant number of successful, major co-management initiatives in tropical inland fisheries is highly encouraging”. They also found that evidence from the case studies supports the contention “that there are few defensible institutional alternatives to co-management when it comes to improving the management of small-scale fisheries in the global South”.

Allison and Badjeck found it difficult to extract design principles and ‘best practice’ from their case studies because of the different historical, social, political and environmental contexts of each situation. They did conclude that in general, “careful adherence to participatory procedures, inclusion of all interest groups in management discussion and the existence of strong political, legal, technical and financial support, will lead to improved local-level governance of fishery resources” (Allison and Badjeck: iv). In addition they recommend that local fishing groups be provided with fuller and clear property rights over the resources they depend on.

3.3 Demand for change

There is considerable demand for change among communities in Caprivi. As indicated above, fishing is an important activity for at least a third of households on the eastern floodplains of Caprivi. At meetings attended during the field work conducted for this report, community leaders and members continually emphasised the need for controls to be implemented over fishing and for unsustainable practices to be brought to a halt. This is an important foundation for developing a community-based approach to fisheries management. If there is no perception of a problem and no perception that the resource is under threat, people will have little motivation to develop and enforce controls.

However there is clearly recognition among the local leadership that problems exist and that action needs to be taken to address the problems. These community leaders were asked whether ordinary fishermen would obey the rules that were developed locally and whether the fishermen also saw the need for change. The answer was that individuals were aware of the likely consequences of the current unsustainable practices and they would stop using them if they knew that everyone else was also going to stop. This is the classic situation of an “open access” resource where individuals will take what they can from the resource before it becomes depleted because if they don’t then other people will benefit from using up the resource. But if individuals are confident other people will not over exploit the resource, then they will also keep to the rules.

Local community leaders believe the best way to ensure that there is enforcement of rules and regulations is to devolve the authority for fisheries management to local level institutions. They believe that enforcement will be easier at the local level carried out by “fish guards” employed to monitor resource use and that it will be

easier for traditional leaders at the local sub-khutas to keep records of persons licensed to fish and their registered nets. They propose that income from licence fees can be used to fund these local level management activities.

In July 2008, the chairpersons of 14 registered and emerging conservancies, and two community forest committees wrote to the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project requesting assistance in writing a letter to the MFMR regarding community-based fish management. The conservancies requested the following:

- to be involved in the review of the Fisheries Act;
- to be able to management fishing net permits; and
- to have rights to management and enforce laws on fish utilisation.

The existence of two fish management committees and the management efforts already being taken by conservancies such as Impalila and Kasika (see above) are good indications that communities are ready and able to take on fish management at the local level.

3.4 Benefits of introducing community-based management

The evidence from research on community-based and collaborative fish management internationally and the experience from Namibia's conservancies suggests that introducing similar approaches in Caprivi will lead to a number of benefits.

The introduction of local controls over fish management through various means such as fish guards, confiscation of illegal nets, establishment of fish reserves, observation of closed seasons, etc. should have considerable positive impacts on the resource base through preventing the use of unsustainable harvesting methods and enabling the resource to recover. This will ensure that the resource will continue to provide livelihood benefits to local fishermen in the future. The introduction of local controls through community-based management should also help to reduce the conflict between sport angling and local commercial fishing. Cooperation between fishing loges and local communities (particularly through conservancies) can help to ensure that the interests of both are taken into account. For example, agreements can be made ensuring that the major sport angling species are not targeted for commercial fishing. Further, an improvement in resource management leading to improved fish stocks should lead to the main sport angling species recovering so that large size fish are again available to anglers.

There should also be benefits to MFMR. Currently there is hostility towards the fisheries inspectors as they try to carry out their functions – particularly when they take action against people who wish to obtain licences but are unable to do so because of the current system for issuing licences (see above). Further, the three inspectors employed cannot adequately control illegal fishing in an area the size of Caprivi and fishing using illegal methods illegal fishing appears to be widespread. The work of the fisheries inspectors would be made considerably easier if they were supported by local people concerned for the protection of their own local fish

resources. If the authority to manage fisheries was devolved to local level this would automatically increase the number of fisheries “inspectors”. Local people involved in monitoring illegal resource use will be on the spot to see what is happening in their area and will know who illegal fishermen are. They will be able to take on the spot action. The MFMR fish inspectors will then be able to change their role from being responsible for all law enforcement activities in Caprivi to one of supporting local law enforcement, ensuring that serious cases reach trial, and providing extension support to local fisheries managers.

Local communities will benefit from the introduction of community-based fish management in a number of ways. Gaining management authority over fish resources will add to the rights communities already enjoy over wildlife, forest and water resources. This will strengthen local governance of natural resources and strengthen community empowerment. A sustainably managed fisheries resource will clearly contribute to local livelihoods by providing a continuing source of protein as well as a sustainable income for the commercial fishermen. This in turn provides an important contribution to the diversified livelihood activities of most rural households.

If local communities are able to develop better cooperation with fishing lodges and sport anglers there are opportunities for expanding their income through joint ventures and partnerships. In some cases there may be opportunities for communities to develop new lodges in their own fishing reserves and linking these to sport fishing and game viewing.

3.5 Government policy

Government policy is increasingly promoting the development of community-based approaches to natural resource management. Cabinet has fully endorsed the devolution of management to communities and the integration of community-based management across sectors. According to a Cabinet media release, Cabinet took the following decision at the 7th 2006 Cabinet meeting of the Fourth Government held on 11 April 2006:

Cabinet approved the Recommendations, Strategic Options and Action Plan on Land Reform in Namibia as prepared by the Permanent Technical Team on Land Reform and as amended by the Cabinet Committee on Lands and Social Issues.

The media release also stated the following:

With regard to the policy framework on land reform, Cabinet approved that:

- In the medium term, sectoral policies on natural resources management, water, land, forestry and agriculture must be revised to give decision-making and management authority to resource-users at a local level;
- In the long term, discussions are necessary to draw up a well-conceptualised, inclusive and integrated policy framework. This is essential if widely supported, unambiguous, coordinated goals for policy-making are to be achieved. It must also be supported by a cohesive

institutional framework at national, regional and local levels, and followed up by a well-coordinated and effective implementation strategy.

Cabinet also approved the encouragement of integrated resource management in areas such as water, sanitation, and drought mitigation strategies and recommended collaboration between various Ministries, namely Ministry of Environment and Tourism, Ministry of Lands and Resettlement and the Ministry of Agriculture, Water and Forestry.

On the development of communal land, Cabinet recommended the following:

- That community-based policies on resource management are expanded beyond wildlife and tourism to incorporate other natural resources like water, land and land-based economic activities;

There is therefore a clear mandate from Cabinet for a) giving local resource users decision making and management authority over natural resources and b) the integration of resource management across sectors.

3.6 Summary

In summary there are several reasons for adopting a community-based approach to fisheries management in the Zambezi/Chobe river systems:

- Experience from community-based wildlife management in Namibia through conservancies suggests that community management can work if communities are provided with rights over the resource and the ability to benefit from its sustainable use.
- This experience is also reflected internationally where providing the right policy, legal and support frameworks including strengthening local property rights over fisheries has led to successful local fisheries management.
- Communities in eastern Caprivi understand are concerned at the current status of the fisheries and wish to address current problems. They are willing to take on local management and have a number of strategies for improving the fish stocks and curbing unsustainable fishing.
- Adopting a community-based fisheries approach would have benefits for the resource, for the MFMR and for the communities.
- Government policy approved by Cabinet is aimed at promoting the devolution of decision making and management authority over natural resource management to local levels and is aimed at promoting integrated natural resource management approaches.

4. Opportunities for integrating community-based fisheries management with CBNRM approaches in other sectors

4.1 Advantages of creating links to existing CBNRM institutions

As indicated above a major challenge for developing community-based fisheries management in the Zambezi/Chobe river systems is to ensure that there is

integration with existing CBNRM approaches. One of the main reasons for taking an integrated approach is that a proliferation of various resource management committees at community level leads to various forms of inefficiencies. Often the same community leaders are involved in more than one committee and much of their time is then spent on responding to requests from different Ministries or support organisations, attending meetings and workshops, receiving training, etc. They then have little time for their own affairs and existing jobs.

Further, it is inefficient for different Ministries and support organisations to be sending their officials to visit communities at different times to discuss similar development and resource management issues, albeit with regard to different resources. This can be particularly problematic as communities tend to view their land holistically and not in terms of single resources.

There is also potential to create jealousy and even conflict between different community resource management institutions. This is particularly the case where one institution has income at its disposal and others do not. Other potential problems include creating institutions with overlapping jurisdictions as has happened with some conservancies and community forests in Caprivi. It makes resource management difficult if there are different community bodies responsible for different resources in the same geographical area but even more complicated if these bodies only partially overlap and one of them extends beyond the boundaries of the other.

There are some specific advantages to developing community-based fisheries management through linking it to an existing community-based institution such as a conservancy. Conservancies are legal bodies with existing rights over wildlife and tourism. There are a number of potential links between fisheries management, tourism and wildlife management. In some cases conservancies have been registered or are being formed where there are existing fishing lodges or where sport fishing is one of the major attractions of the lodge. Such lodges are expected to enter into partnerships with the conservancy and pay various fees to the conservancy in recognition that they are using the community land and in recognition of the conservation efforts of the community. In cases where there are fishing lodges some of the income can be ploughed back into fisheries management by the conservancy and the community can also benefit from income linked to sustainable fisheries management. This in turn will help provide an incentive for continued sustainable management of the resource.

There are also potential links to wildlife management and even forest management in some areas of Caprivi. One such area is Maningimanzi north of Lisikili, where there is a large body of water south of, but linked to the Zambezi. This water is permanent throughout the year and has stocks of fish and the local fishing committee is proposing that this body of water should be set aside as a fish reserve that could be linked also to tourism. According to local people elephant use the area and there is other wildlife. At the same time the area has an interesting mix of vegetation ranging from riverine species such as *Kigelia africana* (sausage tree), *Garcinia livingstonei* (mangosteen) and *Anthocleistia grandiflora* (forest big leaf, rare in Namibia) and sandveld species such as *Terminalia sericea* (silver cluster leaf). In this area there is thus potential to carry out fisheries management through setting aside a fish reserve, which could also generate income for the community through

development of a sport fishing lodge which would also carry out game and bird viewing land and river safaris which would be taking place in a community forest.

A conservancy could provide the umbrella institution which could enable these activities to take place. It would have rights over tourism and wildlife, would be able to enter into agreements with the private sector for lodge and tourism development. If the conservancy was able to gain fish management rights and apply to become a community forest it could manage fish and forestry through sub-committees that would be responsible for these resources at the local level. It is important to recognise that wildlife, forestry and fisheries are likely to be managed at different scales. Wildlife might be found throughout the conservancy and particularly elephants might move through the whole area of the conservancy even into neighbouring areas. Further, tourists might use large parts of the conservancy in different ways. However, forestry and fisheries are more likely to be managed at the local level such as at the village or village cluster level. For forestry and fisheries to be integrated within conservancies the conservancy itself needs to devolve management authority over these resources to the appropriate levels. In this way the existing fish committees could manage local fisheries resources as part of the conservancy. The conservancy would provide the legal institution with defined borders and jurisdiction which can facilitate integrated resource management.

Conservancies also provide practical and logistical advantages for developing community-based fisheries management. They usually have an office from which the administrative tasks that accompany management activities can be carried out. The office can assist in keeping records and files particularly if licensing is devolved to the local level (see below). Conservancies carry out monitoring of wildlife and vegetation through the event book system which is already geared towards monitoring the fisheries resource. Conservancies also usually have a vehicle and telecommunications which facilitate communication within the conservancy and with government and other external agencies. Through their infrastructure, available financial and human resources, and legal recognition, conservancies provide useful economies of scale for the development of community-based fisheries, while at the same time providing the flexibility for the resource to be managed at an appropriate local scale.

4.2 Recommendations for integration

Integration of community-based fisheries with other CBNRM approaches should take place through two main mechanisms, the legal and institutional arrangements, and the manner in which support to the development of community-based fisheries is provided.

Legal and institutional arrangements

- It is strongly recommended that the legal and institutional arrangements for community-based fisheries management be linked to the existing conservancy approach through providing conservancies with the legal authority to manage fish resources.

- The conservancies should then establish a locally-based Fisheries Management Committee (FMC) which is responsible for managing defined bodies of water (these committees would be established at the level most appropriate for each case, which could often be the level of the sub-khuta).
- Where appropriate these areas could be declared fisheries reserves in terms of the legislation.
- The FMC would represent the local people who use the fish resource in the defined body of water and would exercise management functions on their behalf. The FMC in conjunction with the local fishermen would develop rules for the use of the fisheries resource.
- The FMC would also be represented on the Conservancy Committee and would report on its activities to the conservancy committee.
- The FMC would collect licence fees, 75% of which it would retain and 25% of which it would pay to the MFMR. The FMC would use its licence fee income to carry out fisheries management activities such as the employment of fish guards, fisheries monitoring, checking of licences and nets, purchase of a patrol boat etc.
- Where a fishing/tourism lodge is established within a defined body of water managed by an FMC the conservancy should allocate an agreed portion of the income from the lodge directly to the Fisheries Management Committee for expenditure on fisheries management and on specific benefits to the fishermen represented by the FMC.

Support to the development of community-based fisheries management

- It is strongly recommended that support to the development of community-based fisheries management is implemented in a way that integrates with existing support to CBNRM institutions.
- The NGO, Integrated Rural Development and Nature Conservation (IRDNC) provides existing support to conservancies including wildlife management, enterprise development and institutional development. Support to developing community-based fisheries management should be channelled through IRDNC in order to gain maximum benefit from links to conservancies.
- The MFMR, the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project and IRDNC should develop a Memorandum of Understanding (MOU) that sets out the roles and responsibilities of each in providing support to community-based fisheries management (CBFM).
- CBFM should be incorporated within the visioning and management frameworks that conservancies develop and support should be provided in a coordinated way according to the vision and management frameworks of the conservancies.

Figure 1. Dried and fresh fish being sold at the Katima Mulilo fish market. (Photo: Olga Jones)



5. Recommendations for devolving authority over fish management in the Zambezi/Chobe river systems to local communities

5.1 A vision for community-based fish management

Section 2.1 above identified potential overexploitation of the fisheries resource through unsustainable and illegal fishing methods, problems in the licensing system and problems in enforcing legislation as major challenges for fisheries management in the Zambezi/Chobe river systems. The following is a vision of how community-based fish management could be structured in order to address these problems and challenges. The example of a fictitious conservancy is given to illustrate what could be achieved:

The Maningimanzi Conservancy has been registered by the Ministry of Environment and Tourism and has acquired rights over wildlife and tourism. It has also been recognised as a community forest by the Ministry of Agriculture, Water and Forestry. The Ministry of Fisheries and Marine Resources has promulgated regulations recognising the conservancy as an inland fisheries committee in terms of the Inland Fisheries Resources Act of 2003. The conservancy has established two localised fishing committees at sub-khuta level which it has authorised to manage the fisheries resources as a sub committee of the conservancy.

Committee A is managing a stretch of water along the Zambezi River. On the Zambezi side of the river a similar fishing committee has been established under Zambian legislation and the two committees have decided to manage the resource jointly. They have held meetings with all the fishermen, traditional authorities and government fisheries officials on both sides of the river and agreed on how fishing should take place. Agreement has been reached that the fishing committees will enforce the rules regarding net sizes, will prevent drag netting, use of mosquito nets etc. The committees issue licences for nets and sport fishing and keep a register of net owners and their nets. The Namibian Committee A retains 75% of the licence fees which it uses to employ fish guards to carry out resource monitoring and to purchase and operate a patrol boat. The committee submits monthly reports to the conservancy committee and the MFMR regarding management activities, any illegal use of the resource and financial statements. The fish guards and the committee report illegal activity to the MFMR fishing inspectors who work with the fish guards on law enforcement.

Committee B is responsible for a large backwater of the Zambezi which remains flooded throughout the year. The committee recommended to the conservancy that this area should be declared a fisheries reserve in terms of the Inland Fisheries Resources Act of 2003. The conservancy successfully applied to the MFMR and the area has been gazetted as a fisheries reserve. In terms of regulations promulgated under the Act the conservancy has been given management responsibility for the reserve and this is carried out through the Fisheries Management Committee. The conservancy has zoned the land area around the fisheries reserve for wildlife and tourism and as an area of the community forest where there should be no harvesting of forest resources. A fishing lodge has been built by a private sector company which pays an annual rental and percentage of turnover to the conservancy. The lodge also carries out game and bird viewing by boat and on land in the fish reserve and surrounding area. The FMC issues sport angling licences to the tourists that visit the lodge for fishing. The committee retains 75% of the licence fees which it uses to ensure that illegal fishing does not take place in the fisheries reserve through employing fish guards, monitoring and to purchase and operate a patrol boat. The conservancy annually allocates a percentage of income from the lodge to the FMC which is also used for fisheries management and specific benefits for the fishermen represented by the FMC. The committee submits monthly reports to the conservancy committee and the MFMR regarding management activities, any illegal use of the resource and financial statements. The fish guards and the committee deal report illegal activity to the MFMR fishing inspectors who work with the fish guards on law enforcement.

Such an approach as outlined above would provide local systems of control over illegal fishing and fishing methods, fund the activities necessary for exercising such control and make fishing and net licences easily accessible to local fishermen and sport anglers at points close to where the fishing actually takes place. It would also foster improved cooperation between local fishermen, sport anglers and the MFMR and would reduce the burden of law enforcement work on MFMR inspectors. The legal means to achieve this vision are explored in the next two sub-sections.

5.2 Using existing legislation to achieve the vision

Strengths, opportunities and weaknesses of the existing legislation

The main strength of the existing legislation is that under Section 29(2)(c) it enables the Minister to make regulations which “provide for the establishment of inland fisheries committees for purposes of managing the fisheries in particular water bodies or in particular areas and define the functions, powers and duties of such

committees". This provides the opportunity for the Minister to provide different powers and functions as may be appropriate for different committees in different sets of circumstances. Under this section the Minister could delegate authority for managing the fisheries resources to inland fisheries committees (IFCs) and define their powers and functions. These powers and functions could include prevention of illegal fishing and fish methods, monitoring of resource use, application to the MFMR for the declaration of a closed season, and regular reporting to the MFMR.

The weakness of the current legislation is that in contrast to the Zambian legislation (see Annex 1) and other Namibian sectoral legislation for CBNRM (see Section 2.1) it contains no detail about the envisaged delegation of power to the IFCs. It contains no detail about who the committee should represent, accountability of the committee to the community, the role of traditional leaders, how the committee should organise its affairs (e.g. need for a constitution), how it will be financed, how it will handle finances, how its area of jurisdiction will be defined, etc. All of these issues still need to be addressed in the regulations which have not been developed yet. The current legislation does not provide guidance on the procedure for establishing committees. Should a community elect a committee which then applies to the Ministry to have regulations promulgated, requesting certain powers? Or does the Ministry identify a committee itself, decide which powers it wants to delegate and then promulgates regulations? This latter approach would represent a very top down system which would not provide a good foundation for community-based management. At the same time, however, the lack of existing regulations does provide the flexibility for the regulations to be developed that enable a conservancy to be promulgated as an IFC.

Further the approach of developing regulations for establishing committees and defining their powers and functions represents an administrative approach to delegating authority that does not provide strong property rights or tenure security to local communities. Regulations may be rescinded as easily as they are promulgated depending on the disposition of individual officials or politicians at any particular time. This is also not a sound foundation for a community-based approach. The experience from the wildlife sector in Namibia with conservancies and international experience with community-based fisheries indicates that strong property rights over a natural resource is one of the key drivers of wise and sustainable use (see sections 3.1 and 3.2 above).

Under Section 23(3) the current legislation enables the Minister to appoint a person nominated by a traditional authority as an inspector and this would mean that such a person would have the powers of inspectors set out in Sections 25 and 26. The Minister may, according to his/her discretion, and in consultation with the Minister of Finance determine the remuneration to be paid to an inspector nominated by a traditional authority and appointed by the Minister. However, this remuneration is not mandatory (Section 24 states that the Minister *may* determine the remuneration to be paid "if any"). The legislation does not specify that such a person must be a *member* of a traditional authority, but should be *nominated* by a traditional authority. This means that for the purposes of community-based fisheries management a traditional authority could nominate a member of the traditional authority or a community member to be an inspector. An IFC established under Section 29(2)(c) could therefore recommend a community member identified to be a local fish guard

to the traditional authority for nomination as an inspector to be appointed under Section 23(3). If the fishing committee was able to pay the fish guard/inspector then the MFMR would not have to do this itself.

A problem with the current legislation is that it devolves the allocation of licences and collection of licence fees to Regional Councils rather than to lower levels within the community. This has resulted in Caprivi in the problems detailed in section 2.1 and means that licence fees cannot be currently used as a means to fund local level fish guard/inspectors or other community-based management activities.

Section 22(1) enables the Minister to declare fisheries reserves in which no fishing is allowed without the Minister's permission. A traditional authority may request the Minister to declare a fisheries reserve and could do this on behalf of an inland fisheries committee supported by that traditional authority. It could be possible for the Minister under Section 29(2)(c) to give management powers and functions over a fisheries reserve to an inland fisheries committee.

In summary the present legislation allows for the following:

- ✓ The establishment of inland fisheries management committees through regulations which need to define the with powers and functions of the committee as well as how it will be established, how it will organise its affairs, and how it is accountable to local resource users/community members.
- ✓ Traditional authorities to nominate persons to be appointed fisheries inspectors by the Minister.
- ✓ The declaration of fisheries reserves at the request of a traditional authority.
- ✓ Potentially the assignment of powers to manage a fisheries reserve to an inland fisheries committee

Together the above provide a foundation for the development of community-based fish management, *provided* that there is good cooperation between inland fisheries committees and traditional authorities and *provided* that the MFMR develops appropriate regulations and is flexible and supportive in its approach. However it is difficult to address the issue of licensing and licence fees without amending existing legislation.

Recommendations for devolving authority under the existing legislation

The following are recommendations for implementing CBFM under the existing legislation:

Regulations

- ✓ MFMR should urgently develop regulations that provide for the establishment of inland fisheries committees and which define their powers and functions.

- ✓ The powers and functions of the committees should include prevention of illegal fishing and fishing methods, powers to confiscate illegal nets, resource monitoring, management of fisheries reserves and reporting to MFMR.
- ✓ The regulations should be framed in such a way as to enable communities to form their own committees and apply to the MFMR for promulgation and should be flexible enough to allow a community to use an existing institution such as a conservancy to be established as an inland fisheries committee.
- ✓ The regulations should address issues of who the committees should represent and how they are accountable to local resource users/communities, as well as financing, financial management, role of traditional leaders, and the need for a constitution.

Specific proposals for regulations that would address the above issues are contained in Annex 2.

- ✓ In addition, MFMR should revise the legislation such that Regional Councils should be able to use local bodies such as conservancies or sub-khutas to issue licences and collect licence fees. The conservancy or sub-khuta should be able to keep 75% of this fee for management of the fish resource. In addition, where appropriate lodges should also be able to sell licences on behalf of the conservancy.

Implementation

The following implementation steps need to be taken to ensure that the current legislation can be appropriately applied to promote community-based fish management:

- In order to take advantage of the existing legal powers, capacity, and infrastructure of conservancies, the recognition of conservancies as inland fisheries management committees should be actively promoted by the MFMR.
- The conservancies should be encouraged to establish local fisheries management sub-committees at appropriate levels (such as sub-khuta) which are responsible for local management.
- Where a fisheries reserve is thought to be a useful management tool by the local community, the conservancy as the inland fisheries management committee should request the declaration of a fisheries reserve to the traditional authority which should make the request to the MFMR. This request should be before the regulations are finalised for the establishment of the inland fisheries committee.
- MFMR should ensure that regulations for the establishment of the inland fisheries committee include provision for management of the fisheries reserve.
- Before the regulations are prepared for establishment of the committee the conservancy as the inland fisheries committee and acting on the

advice of its fishing sub-committee(s) should provide nominations of persons who should be local fish guards to the traditional authority which should nominate these persons for appointment by MFMR as fisheries inspectors.

- Unless there are good grounds for objecting, the MFMR should accept these nominations. Wherever possible means should be found for the conservancy/inland fishing committee to finance the payment of the fish guards/inspectors.

5.3 Strengthening Community-based fisheries management through amending the existing legislation

The vision set out above of community-based fisheries management can be achieved partially through existing legislation but as noted above there are weaknesses in the existing legislation. The weaknesses mean that there is not a strong and coherent policy and legal framework for community-based fisheries management. As indicated in the previous sub-section a number of administrative acts and institutional links need to be made before the system can function under the current legislation. Also communities do not have strong and secure rights and tenure over fisheries under the current legislative provisions. The following are recommendations for revising legislation so that a strong and robust system of community-based fisheries management can be established that benefits the MFMR, the resource base and local communities:

- The legislation should be revised so that provision is made for inland fisheries committees to be formed and provided with strong and secure management rights over fisheries.
- The legislation should adopt the approach of the Nature Conservation Amendment Act of 1996 and the Forest Act of 2001 which provides rights over resources to communities that meet certain conditions.
- The legislation should spell out these conditions which should include the formation of an association of defined community members represented by an elected committee, governed by a constitution, and operating within a defined geographical boundary.
- The legislation should enable any existing institution, such as a conservancy, that meets these conditions to be recognised as an inland fisheries committee.
- The legislation should clearly spell out the management rights of the inland fisheries committee which should include the following:
 - (vii) The right to appoint fish guards who will be appointed as fisheries inspectors
 - (viii) Through the community fish guards/inspectors to enforce the legal provisions regarding methods of fishing and fishing without the required licence.
 - (ix) The right to set harvest limits and declare closed seasons.
 - (x) The right to request the declaration of fish reserves and manage these reserves.

- (xi) The right to issue all fishing licences including recreational licences, to collect licence fees and to retain 75% of the income from these fees.
- (xii) The right to carry out inspections and confiscate of illegal fishing gear and undersize fish.

Specific proposals for amendments to the legislation are contained in Annex 3.

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ANNEX 1 SUMMARY OF EXISTING FISHERIES LEGISLATION IN NAMIBIA AND ZAMBIA

Namibia

The Inland Fisheries Resources Act (No. 1 of 2003) provides for the conservation and protection of aquatic ecosystems and the sustainable development of inland fisheries resources and the control and regulation of inland fishing (GRN 2003).

Determination of policy

The Act empowers the Minister to determine the general policy for the conservation and utilisation of the inland fisheries resource. It also makes provision for the Minister to determine policy to be applied in a particular area in consultation with the relevant regional council, local authorities and traditional authorities.

Inland Fisheries Council

The Act provides for the establishment of an Inland Fisheries Council which is empowered to advise the Minister on any matter which the Minister refers to the council for advice. According to the Act the Minister may appoint any person to the council, but the council must include the Permanent Secretary, two persons nominated by the Association of Regional Councils, one person nominated by the Association of Local Authorities, three persons nominated by the Council of Traditional Leaders and four persons whom the Minister deems to have sufficient knowledge and expertise. So far the council has not been established.

Fishing licences and registration of nets

No person may fish with a rod, reel, line and hook or net without obtaining a licence which must be available for inspection by a fisheries inspector at the place of fishing. The Minister may attach conditions to a licence regarding, bag limits, fishing gear, areas in which fishing is prohibited or restricted, closed fishing seasons, furnishing of catch reports and any other matter the Minister deems appropriate.

Nets must be authorised by licence, marked and conform to the prescribed requirements. Nets may not be used within 100m of a bridge, culvert or spillway when water is flowing or in a manner which obstructs more than half the width of a water course. In terms of the regulations accompanying the Act (MFMR 2003), nets must be registered by the relevant regional council which must record the name and address of the owners, the length, strand diameter, height and mesh size of the net, the registration number and any other information deemed necessary. Only Namibian citizens and permanent residents over 18 may register nets. The fee for registration is N\$50 per year. A certificate of registration must be issued to the net owner which is valid for 12 months. A fine of N\$300 or up to three months imprisonment is the penalty for failing to register a net. Gill nets must be marked with a metal tag furnished by the Ministry bearing the registration number of the net. Drag netting is prohibited except in floodplains with the permission of the relevant traditional authority. No person may use more than 4 gill nets. Such nets must be no more than 100m in length and no more than 3m in height. There must be at least 100m between nets. On the Zambezi system nets may not be more than 76mm in

mesh size. No person is allowed to fish in any small body of water (ponds, flood plains and man made impoundments on communal land) unless an “open season” sign is displayed by the relevant regional council or traditional authority.

The provisions regarding licences and registration of nets do not apply to subsistence fisheries by means of traditional fishing gear. Subsistence fisheries are defined as “those fishing activities whose fishers regularly catch fish using traditional fishing gear for personal and household consumption and engage from time to time in the local sale or barter of excess catch”. Traditional fishing gear is defined as “gear manufactured by the local population in an artisanal manner making use of natural materials available from the local environment”.

Recreational fishing

Recreational fisheries are defined as “fisheries conducted by individuals primarily for sport but with a possible secondary objective of catching fish for domestic consumption but not for sale”. According to the regulations, recreational licences are valid for one month only and cost N\$14.20 for Namibians or permanent residents and N\$28.40 a month for non-Namibians. Recreational fishermen may not use more than 2 rods and 2 lines with 2 hooks attached, are not allowed more than 10 fish of one species in one day and there are minimum sizes set for certain species. A recreational licence holder may not sell any fish caught in terms of the licence. Licences must be obtained for recreational fishing charter boats.

Fisheries reserves

The minister may declare any area of inland water to be a fisheries reserve on his/her own initiative or in response to an initiative of a regional council, local authority or traditional authority if the Minister believes that this will promote the conservation of the fisheries resource and related ecosystem. No fishing may take place in a fisheries reserve without the written permission of the Minister.

Fisheries inspectors

Enforcement of the legislation is carried out by fisheries inspectors of the MFMR. However, the Minister may designate as a fisheries inspector a staff member of other specified ministries, a regional council or local authority or a person nominated by a traditional authority. The Minister may delegate to such designated inspectors or to a person employed by a regional council or a local authority council the powers provided to the Minister under the Act except for the power to make regulations. In terms of this delegation authority, the Minister has delegated to regional councils the power to issue recreational fishing licences, to issue certificates of registration of nets, and to issue licences for the use of recreational fishing charter boats.

Inland fisheries committees

The Act empowers the Minister to make regulations providing for the establishment of inland fisheries committees for the purpose of managing the fisheries in particular water bodies and to define the functions, powers and duties of these committees.

Zambia

The Fisheries Act of 1974 provides for the control and regulation of inland fisheries and provides for the establishment of fishing development committees for specific areas of water. An Amendment Act of 2007 makes greater provision for the establishment of community-based fisheries and delegation of power by the Minister to manage fisheries (GoZ 2007).

Prescribed areas

In terms of the Fisheries Act of 1974 the Minister may, for the purposes of recreational, subsistence, or research fishing, by statutory order declare any area of water to be a prescribed area. In such areas the Minister may regulate the method of fishing to be used and may prohibit the use of nets.

Commercial fishing areas

The Minister may declare any area of water to be a commercial fishing area and in terms of the Act the Minister has the power to make regulations:

- (a) prohibiting, restricting or regulating fishing;
- (b) controlling the methods of fishing;
- (c) prescribing that during any period of the year it shall be an offence to fish whether generally or for any particular species of fish;
- (d) prescribing the licences which must be held by any person fishing in a commercial fishing area;
- (e) prescribing the records to be kept and the information to be provided by any person fishing in a commercial fishing area:

Registration of fishermen and boats

All persons intending to be fishermen must register themselves and their boats.

Fishing Development Committees

For the better co-ordination and improvement of commercial fishing in any commercial fishing area, the Minister may appoint a Fishing Development Committee which must submit reports to the Minister. The members of any Fishing Development Committee shall be appointed by the Minister under such terms and conditions and for such periods as the Minister may prescribe.

The Fisheries Amendment Act of 2007 extends the concept of the fishing development committees by making provision instead for the establishment of management committees for specific fisheries management areas. The Minister may declare any area of water to be a fisheries management area for the management and sustainable utilisation of such species of fish as may be specified in the order. A licence is required in order to fish in a fisheries management area.

Fisheries Management Committees

In terms of the Amendment Act the Minister must appoint a Fisheries Management Committee for each fisheries management area. The committee must consist of the following:

- (a) six representatives from the local riparian fishing community who shall be elected by the local community;
- (b) one representative of the local authority in the fisheries management area;
- (c) one representative of the chief;
- (d) one representative of a non-governmental organisation operating in the fisheries management area;
- (e) one representative from the fishing industry;
- (f) one representative from the aquaculture industry; and
- (g) two other persons:

The amendment Act stipulates that where the fisheries management area is in a game management area (GMA), the Minister shall appoint the committee in consultation with the community resource board for that area. A community resources board is established under the Zambia Wildlife Act of 1998 and is given management responsibility for wildlife in the GMA for which it is responsible. It also receives 50% of income from hunting within the GMA. The community resources boards in Zambia are the counterparts to communal area conservancies in Namibia although Namibian conservancies are able to retain all income from wildlife use and tourism.

The functions of a Fisheries Management Committee are to promote and develop an integrated approach to the management and sustainable utilisation of natural and fisheries resources in a fisheries management area under its jurisdiction. The committees have power to:

- (a) negotiate in conjunction with the Director, co-management agreements with industrial fishing companies operating in the fisheries management area under its jurisdiction;
- (b) manage the fisheries resources under its jurisdiction, within fishing quotas specified by the fisheries management plan;
- (c) in consultation with the Director, develop and implement management plans which reconcile the various uses of water in the fisheries management area under the committee's jurisdiction;
- (d) cooperate with the Department of Fisheries in the management of the fisheries management area under its jurisdiction;
- (e) facilitate the involvement of non governmental organisations providing support to fisheries management and conservation efforts in the fisheries management area under its jurisdiction;
- (f) recommend to the Director measures, plans and programmes required for fisheries development in the fisheries management area under its jurisdiction;
- (g) monitor the development of aquaculture in the fisheries management area under its jurisdiction;
- (h) submit to the Director, on a regular basis, reports on the status of the fisheries management area under its jurisdiction; and

- (i) perform such other functions as the Minister may direct.

Fisheries management plans

A fisheries management committee must prepare and implement a fisheries management plan which must:

- (a) identify the fishery to which it relates and state its characteristics and its current state of exploitation;
- (b) specify the objectives to be achieved in the conservation, management and development of the fisheries management area;
- (c) specify the strategies to be adopted for effective management and development of the fishery;
- (d) determine fishing quotas, the amount of fish which may be harvested, and the number of fishing licences which may be issued, in respect of the fishery, in any fishing season;
- (e) identify any possible adverse effects, that fishing activities in the fishery may cause to the environment and provide solutions for the management of those effects in accordance with the provisions of the Environmental Protection and Pollution Control Act;
- (f) specify the statistical and other data to be submitted by the Committee to the Director for purposes of monitoring the management and development of the fishery; and
- (g) where necessary, identify and recommend any international co-operation that may be needed to achieve the management and development objectives of the fishery.

Community funds

In terms of the Amendment Act a fisheries management committee must establish a fund which is to be used to enhance the economic and social well being of the local riparian community within a fisheries management area. The fund will receive income from revenues payable in respect of fishing and aquaculture licences issued under the Act and services rendered from the use of fisheries resources within a fisheries management area as may be prescribed by the Minister. The community fund may also receive income from grants and donations from any source within or outside Zambia.

Fisheries and Aquaculture Development Fund.

The Amendment Act provides for the establishment of a national Fisheries and Aquaculture Development Fund which receives 50% of the monies collected from fishing and aquaculture licences and other fees payable under the Act and any funds budgeted by government for its operation. The income of the fund is used for the purposes of developing the fisheries and aquaculture sector and facilitating a community based approach to fisheries management and development.

Delegation of power

The Amendment Act enables the Minister to make regulations establishing and regulating community based or other decentralised fisheries management and any aspect of their operation including financial management and the granting or delegation of power to any person, class or group of persons to enforce or implement regulations relating to fisheries conservation and management.

ANNEX 2
PROPOSED REGULATIONS FOR IMPLEMENTING COMMUNITY-BASED FISH
MANAGEMENT UNDER THE INLAND FISHERIES
RESOURCES ACT OF 2003

Section 29(2)(c) of the Inland Fisheries Act of 2003 makes provision for the Minister to make regulations that:

“provide for the establishment of inland fisheries committees for purposes of managing the fisheries in particular water bodies or in particular areas and define the functions, powers and duties of such committees”.

The following are proposed regulations to give effect to this Section of the Act. The regulations are formulated such that a) a group of fishermen could form a new institution to become an inland fisheries committee or b) an existing institution such as a conservancy could be recognised by the Minister as an inland fisheries committee:

Establishment of inland fisheries committees⁶

- 43⁷. (1) Any group of persons with rights to an area of land or any organisation representing such persons may apply to the Minister to be recognised as an inland fisheries committee for the purpose of managing the fisheries in a particular body of water or in a particular area and such application shall be accompanied by:
- (a) the constitution of such group of persons or organisation;
 - (b) a written agreement on the location of common boundaries of the body of water (or bodies of water) or area with adjacent communities or neighbours, and signed letters from neighbouring traditional authorities confirming agreement on shared boundaries;
 - (c) a management plan for the management of such body of water (or bodies of water) or area; and
 - (d) a list of names of the persons who are members of a committee elected to represent the group of persons or organisation which is making the application to the Minister; and
 - (e) statements of recommendation by the Regional Governor and traditional authorities in whose area of jurisdiction the body of water (or bodies of water) or area to be managed is situated;

⁶ These regulations are designed to be generic for areas where a group of people wish to form an inland fisheries committee or where an existing institution wishes to gain inland fisheries committee status, but will most likely be applicable for Caprivi and Kavango. A different approach with different regulations may be required for community-based fish management in the Cuvelai system.

⁷ I have used this numbering to follow on from the numbering in the existing regulations

- (2) If the Minister is satisfied in respect of an application made in terms of subsection (1) that:
- (a) the constitution referred to in subsection(1)(a) provides
 - (i) for accountability of the committee referred to in section 1(d) to the members of the group of persons or organisation;
 - (ii) for the members of the group of persons or organisation to decide how the income and other benefits derived from the exercise of rights to manage inland fisheries shall be used;
 - (iii) The procedure for the election and removal of members of the committee;
 - (iv) The powers and responsibilities of the committee,
 - (v) A definition of the persons who have the right to vote in meetings;⁸
 - (vi) Provisions relating to the holding of meetings of the committee and members; the management of finances; procedures for amendment of the constitution and for dispute resolution:
 - (b) the geographic area to which the application relates has been sufficiently identified;
 - (c) The management plan referred to in subsection (1)(c) contains:
 - (i) measures to be taken to ensure the sustainable management of inland fisheries in the geographic area concerned;
 - (ii) a statement setting out the boundaries of the body of water (or bodies of water) or area to be managed by such group or organisation;
 - (ii) measures for the integration of inland fisheries management with the management of any other natural resources over which the group of persons or organisation has acquired management rights.
- (3) Then the Minister shall:
- (a) recognise the group of persons or organisation concerned as an inland fisheries committee; and
 - (b) by notice in the Gazette declare such inland fisheries committee as being the authority for managing inland

⁸ This is also essentially the definition of who is a member of the group

fisheries for the body of water (or bodies of water) or area to which the application relates.

- (4) The Minister may, subject to subsections (5) and (6) at any time amend or withdraw any notice issued under section 3(b)⁹
- (5) Before the Minister acts under subsection (4) he or she shall in writing –
 - (a) inform the inland fisheries committee of his or her intention to do so;
 - (b) furnish the inland fisheries committee with the reasons for the intended amendment or withdrawal in question, and
 - (c) where appropriate, give the inland fisheries committee a reasonable period of time to rectify any actions or lack thereof that have caused the Minister to propose the taking of such action, and
 - (d) call upon the inland fisheries committee to make representations within a period specified as to why the amendment or withdrawal in question should not be effected.
- (6) After considering any representations received within the specified period from the inland fisheries committee concerned in terms of subsection (5)(c), the Minister may
 - (a) proceed under subsection (4) with the amendment or withdrawal in question; or
 - (b) refrain from taking any steps under subsection (4).
- (7) The Minister shall in writing inform the inland fisheries committee concerned of his or her decision under subsection (6) and the reasons for such decision.

Functions, powers and duties of inland fisheries committees

44. (1) An inland fisheries committee declared in terms of section 43(3) shall:
 - (a) Manage the fisheries in the body of water (or bodies of water) or area defined in the management plan referred to in section 43(1)(c) according to the provisions of such management plan;
 - (b) Have the authority to confiscate illegal nets and fishing gear within its area of jurisdiction;
 - (d) Have the authority to declare a closed fishing season for any body of water under its jurisdiction.

⁹ Sections 4-7 provide the main safeguards for the MFMR. If there is a major problem, the Ministry can institute this procedure and ultimately withdraw the powers and functions of the committee.

- (e) Make local rules for the management of inland fisheries within its area of jurisdiction, provided those rules are not in contravention of the Inland Fisheries Resources Act or any other relevant legislation.
- (2) An inland fisheries committee declared in terms of section 43(3) may apply to the Minister to have any body of water within its area of jurisdiction declared as a Fisheries Reserve, and upon declaration of such fisheries reserve, the Minister shall delegate to such inland fisheries committee the powers to regulate activities in a fisheries reserve contained in Section 22 of the Inland Fisheries Act.¹⁰

Management plans of inland fisheries committees

45. (1) A management plan provided for in section 43(1)(c) shall contain the following:
- (a) a statement setting out the boundaries of the body of water (or bodies of water) or area to be managed by the inland fisheries committee;
 - (b) a description of the status of the fisheries resource base including populations trends (based on existing information and knowledge held by the committee);
 - (c) a description of the vision for managing the fisheries resource of the inland fisheries committee;
 - (d) a description of the main fisheries management objectives of the inland fisheries committee;
 - (e) a description of the main management strategies of the committee including:
 - i Measures to monitor resource use and population trends of important fish species;
 - ii Measures to prevent illegal fishing;¹¹
 - iii Measures to ensure fishing is carried out sustainably
 - iv Identification of any areas identified for declaration as a fisheries reserve
 - v A description of how fisheries management will be integrated with the sustainable management of any other relevant natural resources to which the committee has management rights.

¹⁰ I think it is important that the inland fisheries committees should be able to manage the fisheries reserves declared in their area. A legal opinion might be required as to whether this is possible under the existing legislation (Section 22).

¹¹ This could, for e.g. include the appointment of fish guards.

ANNEX 3
PROPOSED AMENDMENTS TO THE INLAND FISHERIES
RESOURCES ACT OF 2003

The following are proposed amendments to the legislation to give effect to the recommendations in Sub-section 5.3 of the main report. They provide an example of how MFMR can provide strong management rights to resource user groups and existing institutions such as conservancies.

It should be noted that in order to implement the amendments proposed, the following amendments to existing legislation also need to be made:

1. Government Notice No. 11 of 2003 would also need to be amended to be cancelled and instead a notice should be issued enabling inland fisheries management committees to issue fishing licences and collect licence fees. This could be done either by removing this function completely from Regional Councils or enabling inland fisheries committees to collect licence fees on behalf of the councils and to keep 75% of the income to be used for their own management activities, and returning 25% to the Regional Council.

2. Also in order to implement the proposed amendments, Section 23 of the existing legislation should be amended to enable the Minister to designate fish guards appointed by an inland fisheries committee as an inspector:

- (3) The Minister, after consultation with a traditional authority [or inland fisheries committee] may by notice in the gazette, appoint a person nominated by that traditional authority [or inland fisheries committee] as an inspector.*

The wording of Section (4) should also then be amended to include inland fisheries committees.

3. Section 22 should be amended with clauses that enable Inland fisheries Committees to manage and control fishing activities in fisheries reserves within their area of jurisdiction. Proposals are as follows:

- (4) Upon declaration of a fisheries reserve within the area of jurisdiction of an inland fisheries committee, the Minister shall delegate to such inland fisheries committee the powers to regulate and control fishing activities such fisheries reserve*
- (5) No person may fish in a fisheries reserve without the permission of the inland fisheries committee which has been authorised by the Minister to manage such reserve.*

The following clauses could be added to the existing legislation as a new Section 22A. They follow the format of the regulations proposed in Annex 2, but are different

in that they would be contained in the primary legislation and would provide stronger rights to communities. Further, the proposed clauses below have been written such that the primary legislation focuses on the basic conditions for gaining fisheries management rights and on the rights themselves, while much of the detail is then included in regulations which would appear under Section 29(2)(c) in the existing legislation.

Establishment of inland fisheries committees¹²

- 22A. (1) Any group of persons with rights to an area of land or any organisation representing such persons may apply to the Minister to be recognised as an inland fisheries committee for the purpose of managing the fisheries in a particular body of water or in a particular area and such application shall be accompanied by:
- (a) the constitution of such group of persons or organisation;
 - (b) a written agreement on the location of common boundaries of the body of water (or bodies of water) or area with adjacent communities or neighbours, and signed letters from neighbouring traditional authorities confirming agreement on shared boundaries;
 - (c) a management plan for the management of such body of water (or bodies of water) or area; and
 - (d) a list of names of the persons who are members of a committee elected to represent the group of persons or organisation which is making the application to the Minister;
 - (e) statements of recommendation by the Regional Governor and traditional authorities in whose area of jurisdiction the body of water (or bodies of water) or area to be managed is situated; and
 - (d) such other documents or information as the Minister may require.
- (2) If the Minister is satisfied in respect of an application made in terms of subsection (1) that:
- (a) the constitution referred to in subsection(1)(a) provides
 - (i) for accountability of the committee referred to in section 1(d) to the members of the group of persons or organisation;
 - (ii) for the members of the group of persons or organisation to decide how the income and other benefits derived from the exercise of

¹² These provisions are designed to be generic for where groups of persons or existing institutions wish to form or become an inland fisheries committee. They will be most applicable in Caprivi and Kavango. A different approach and different regulations may be more appropriate for the Cuvelai system.

- rights to manage inland fisheries shall be used;
- (iii) A definition of the persons who have the right to vote in meetings;¹³
 - (b) the geographic area to which the application relates has been sufficiently identified;
 - (c) The management plan referred to in subsection (1)(c) contains:
 - (i) measures to be taken to ensure the sustainable management of inland fisheries in the geographic area concerned;
 - (ii) a statement setting out the boundaries of the body of water (or bodies of water) or area to be managed by such group or organisation;
- (3) Then the Minister shall:
- (a) recognise the group of persons or organisation concerned as an inland fisheries committee; and
 - (b) by notice in the Gazette declare such inland fisheries committee as being the authority for managing inland fisheries for the body of water (or bodies of water) or area to which the application relates.
- (4) The Minister may, subject to subsections (5) and (6) at any time amend or withdraw any notice issued under section 3(b¹⁴)
- (5) Before the Minister acts under subsection (4) he or she shall in writing:
- (a) inform the inland fisheries committee of his or her intention to do so;
 - (b) furnish the inland fisheries committee with the reasons for the intended amendment or withdrawal in question, and
 - (c) where appropriate, give the inland fisheries committee a reasonable period of time to rectify any actions or lack therefore that have caused the Minister to propose the taking of such action, and
 - (d) call upon the inland fisheries committee to make representations within a period specified as to why the amendment or withdrawal in question should not be effected.
- (6) After considering any representations received within the specified period from the inland fisheries committee concerned in terms of subsection (5)(c), the Minister may:

¹³ This essentially defines who is a member of the group

¹⁴ Sections 4-7 provide the main safeguards for the MFMR. If there is a major problem the Ministry can institute this procedure and ultimately withdraw the powers and functions of the committee

- (a) proceed under subsection (4) with the amendment or withdrawal in question; or
 - (b) refrain from taking any steps under subsection (4).
- (7) The Minister shall in writing inform the inland fisheries committee concerned of his or her decision under subsection (6) and the reasons for such decision.

Functions, powers and duties of inland fisheries committees

- 22B. (1) An inland fisheries committee declared in terms of section 22A(3) shall:
- (a) Manage the fisheries in the body of water (or bodies of water) or area defined in the management plan referred to in section 22A(1)(c) according to the provisions of such management plan;
 - (b) Issue fishing licences and collect licence fees for fishing activities in the body of water (bodies of water) or area within its jurisdiction.
 - (c) Use any revenue generated from the collection of licence fees and any other income generated through the management of fisheries in the area under the jurisdiction of the committee for the improved management of the fisheries resource and for the benefit of the persons represented by the committee;
 - (d) Have the authority to declare a closed fishing season for any body of water under its jurisdiction.
 - (e) Make local rules for the management of inland fisheries within its area of jurisdiction, provided those rules are not in contravention of this Act or any other relevant legislation, and including:
 - (i) the right to set harvest limits;
 - (ii) the right to declare a closed fishing season for any body of water under its jurisdiction;
 - (iii) the right to impose additional limits on net sizes according to local requirements
 - (iv) the right to establish fish breeding areas which may be closed to certain types of fishing as determined by the committee
 - (f) Appoint fish guards who shall be designated as inspectors by the Minister in terms of Section 23 of this Act.
- (2) An inland fisheries committee declared in terms of section 22A(3) may apply to the Minister to have any body of water within its area of jurisdiction declared as a Fisheries Reserve.

- (3) An inland fisheries committee declared in terms of Section 22A(3) shall at the end of each calendar year submit a report to the Minister which shall contain the following:
 - (a) A brief description of the measures taken to ensure sustainable management of fisheries resources;
 - (b) A brief description of how the income of the committee has been used, including any benefits to members;
 - (c) Minutes of the Annual General Meeting.

The following should be included as regulations under Section 29(2)(c):

Application for declaration of an inland fisheries committee

43. (1) An application to the Minister in terms of Section 22A(1) of the Act for declaration of an inland fisheries committee shall be made on Form XX ¹⁵ and shall be submitted to the Permanent Secretary.
- (2) The relevant constitution required by Section 22A(1)(a) of the Act referred to in subregulation (1) shall be dated and signed by the chairperson of the inland fisheries committee making the application, and shall provide for:
 - a) The objectives of the committee, including the sustainable management and utilisation of game;
 - b) The procedure for the election and removal of members of a committee which represents the legal entity;
 - c) The powers and responsibilities of the committee, including powers to enter into agreements relating to the consumptive and non-consumptive use of game and relating to tourism activities within the area of the legal entity;
 - d) A definition of the persons who have the right to vote in order to elect committee members and take other decisions as defined by the constitution.
 - e) The criteria for being recognised as a member of the group of persons represented by the committee ¹⁶ and the criteria by which persons may acquire recognition as members;
 - f) Provisions relating to:
 - i The holding of meetings of the committee;
 - ii The holding of annual general meetings and ordinary meetings of the members;
 - iii The recording of the proceedings at any such meetings.

¹⁵ An appropriate form will need to be developed by MFMR

¹⁶ E.g. this would be the fishermen in a particular area who have formed the committee or in the case of another institution such as a conservancy, the members of the conservancy

- iv The of quorums for such meetings
- g) The rights and obligations of members
- h) The procedures for members to decide on the use of income in terms of section 30(2)(c) of the Act;
- i) Provision for the management of the committee's finances, including
 - i The appointment of a person with adequate experience in financial matters and of book keeping to manage the committee's who shall report to the committee and the annual general meeting of members on the income received and the manner in which it has been utilised.;
 - ii The keeping of proper accounting records and books of account, and the preparation of annual financial statements;
 - iii The opening of a bank account in the name of the committee with an appropriate financial institution
- j) A procedure for the development and presentation of an annual budget by the committee to the member's Annual General Meeting for approval;
- k) A progress report to be presented at the Annual General Meeting;
- l) A procedure and the criteria to be used for suspension or termination of the rights of members;
- m) A procedure for the amendment of such a constitution;
- n) Procedures for dispute resolution;
- o) A procedure for the dissolution of the committee;
- p) In general, such other matters as the members may deem necessary.

(3) If the Minister has approved any application referred to in subregulation (1), and has under section 22A(3)(b) of the Act declared the inland fisheries committee by notice in the *Gazette*, the Permanent Secretary shall issue to the legal entity a certificate as prescribed in Form YY¹⁷.

(4) The Permanent Secretary shall –

- a) Forward for information a copy of every certificate issued under subregulation (3) to the Permanent Secretaries of the Ministries of Lands and Resettlement, Agriculture, Water and Forestry, Environment and Tourism and Regional and Local Government and Housing and Rural Development;
- b) Keep or cause a register to be kept of declared inland fisheries committees.

¹⁷ MFMR will need to design an appropriate certificate

- (5) An inland fisheries committee that wishes to be disestablished shall in writing apply for such disestablishment to the Minister, giving reasons for such application.

Management plans of inland fisheries committees

44. (1) A management plan provided for in section 22A(1)(c) of the Act shall contain the following:
- (a) a statement setting out the boundaries of the body of water (or bodies of water) or area to be managed by the inland fisheries committee;
 - (b) a description of the status of the fisheries resource base including population trends (based on existing information and knowledge held by the committee);
 - (c) a description of the vision for managing the fisheries resource of the inland fisheries committee;
 - (d) a description of the main fisheries management objectives of the inland fisheries committee;
 - (e) a description of the main management strategies of the committee including:
 - i Measures to monitor resource use and population trends of important fish species;
 - ii Measures to prevent illegal fishing;
 - iii Measures to ensure fishing is carried out sustainably
 - iv Identification of any areas identified for declaration as a fisheries reserve
 - v A description of how fisheries management will be integrated with the sustainable management of any other relevant natural resources to which the committee has management rights.

**ANNEX 4
MEETINGS HELD AND PERSONS CONSULTED**

Date	Place	Meetings and Persons consulted
01.08.08	Windhoek	Dr Chris Brown, Director of NNF.
18.08.08	Chinchimani	Attended meeting between Project coordinator, Dr Ben van der Waal, the Lisikili Fisheries Management Committee and the Linyanti Khuta regarding community-based fisheries management
	Maningimanzi	Meeting with the Lisikili Fisheries management Committee regarding community-based fisheries management in the Maningimanzi area.
19.08.08	Katima Mulilo	Meeting with MFMR fisheries Inspector Philemon lita and project coordinator. Visit to Katima Fish Market with project coordinator.
20.08.08	Lisikili	With project coordinator attended meeting between 2 MFMR fisheries inspectors and 24 local fishermen and members of the Lisikili Fisheries Management Committee.
	Kalizo Lodge	Discussion with Owner/manager of the Kalizo Fishing Lodge, Val Sparg, regarding sport angling, over fishing and problems with obtaining licences for sport anglers.
	Kalimbeza	Meeting with Kenneth Sefulo of the Kalimbeza Fisheries Management Committee regarding activities of the committee and potential links to the emerging Sikunga Conservancy
21.08.08	Ichingo River Lodge, Impalila Island	Meeting with Impalila Conservancy chairman and induna, Charles Matengu and conservancy manager, Calvin Maswahu regarding conservancy management of fisheries resources.
		Meeting with Ralph Oxenham, owners manager of Ichingo river Lodge regarding conservancy management of fisheries resources, status of fish resources, over fishing and impacts on sport angling as a tourism attraction.
		Visit to Kasika conservancy for planned discussion with management committee, but committee were attending another meeting.
22.08.08	Katima Mulilo	Meeting with John Kamwi, institutional development coordinator of IRDNC. Meeting with project coordinator.

ANNEX 5 TERMS OF REFERENCE

The responsibilities of the Consultant under this agreement are:

- a) To undertake a field visit to the Zambezi / Chobe region of Caprivi, and to work closely with the Project Coordinator, Dr Ben van de Waal.
- b) To meet with key stakeholders in the fisheries sector in the region, from elected and Traditional authorities, conservancies and their committees, fishing communities and individuals, government representatives, NGOs, private sector (including angling clubs, lodges that offer fishing, regional tourism representatives), fisheries stakeholders in Zambia, etc.
- c) To assess the present and desired situation in the fisheries sector on the Zambezi / Chobe in Namibia and its situations relative to that of particularly Zambia – keeping in mind that one aim of the Project is to facilitate a harmonization of legal, policy and operational frameworks, plus close collaboration, between the countries.
- d) To seek ways of aligning the community fisheries sector (both at policy / strategy level and at practical local implementation and action level) with the CBNRM approach adopted by other sectors such as forestry, wildlife, tourism; and explores how these may be more closely integrated.
- e) To set out the case clearly and succinctly for the advantages of a fully devolved approach to fisheries management in the region – looking at how the incentives would benefit the fisheries itself and the wetlands ecosystem, the fishing communities, the Ministry of Fisheries and the local MFMR staff whose job it is to manage and implement the laws.
- f) To produce **two reports** from this work, as follows:
 - (i) a report aimed primarily at decision-makers in MFMR on the legislative, policy and strategy levels of how fisheries of the Zambezi / Chobe systems in Namibia could / should be devolved (within the parameters of the Fisheries Act if possible) to lowest appropriate levels; how fisheries could be aligned with CBNRM approaches in other sectors; what some of the present challenges are for the fisheries sector; how devolution and a strong CBNRM approach would be of benefits to all concerned, including the resource; and provide clear step-by-step recommendations; and
 - (ii) a report aimed at local field supervisors and implementers, on an action plan to guide the step-by step implementation of a local fisheries CBNRM initiative, specifically to guide the community facilitator, the implementing support organisations (NNF, MFMR & IRDNC) and the respective local supervisors; that addresses, inter alia, site and community selection, institutional issues, management issues, communications, capacity needs, resource management issues, economic and financial issues, but which is streamlines, highly focused and outcomes oriented.
- g) To take guidance from Dr van de Waal on any additional aspects, issues or requirements not covered or adequately covered in these Terms of Agreement, that might be necessary (at field, meeting and report writing levels) to successfully complete this work.
- h) To advise the NNF of any situation that arises that might jeopardise the successful completion of this project.

Developing community-based fish management in the Zambezi-Chobe river systems in Caprivi, Namibia

Report 2: Findings and Recommendations for implementing a local fisheries Community-based Natural Resource Management (CBNRM) initiative

For submission to the Ministry of Fisheries and Marine Resources, Namibia Nature Foundation and Integrated Rural Development and Nature Conservation

Final Report
November, 2008

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Acknowledgements

This report has been produced as part of the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project. The project is an initiative of the Ministry of Fisheries and Marine Resources (MFMR) supported by the World Wide Fund for Nature (WWF) and the Namibia Nature Foundation (NNF). The ideas and proposals contained in this report are a combination of the author's and those of various people interviewed during the course of the consultancy. Particular thanks are due to the staff of the MFMR, all those who have contributed in different ways and to Dr Ben van der Waal for his guidance during the field trip in August 2008.

Photograph on Title Page by Olga Jones.

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List of frequently used acronyms and abbreviations

CBFM	Community-based Fisheries Management
CBNRM	Community-based Natural Resource Management
FMC	Fisheries Management Committee
IFC	Inland Fisheries Committee
IRDNC	Integrated rural Development and Nature Conservation
MFMR	Ministry of Fisheries and Marine Resources (Namibia)

Executive Summary

The project is an initiative of the Ministry of Fisheries and Marine Resources (MFMR) supported by the World Wide Fund for Nature (WWF) and the Namibia Nature Foundation (NNF). This report makes recommendations for implementing a local Community-based Fisheries Management (CBFM) initiative that is integrated with existing CBNRM initiatives in the Caprivi Region. It provides an implementation approach and the steps and inputs required to develop CBFM in the Zambezi/Chobe river systems. This report is the companion to an initial report which analyses how CBFM can be achieved in the Zambezi/Chobe rivers systems through the existing provisions of the Inland Fisheries Resources Act of 2003 and suggests how these provisions could be strengthened¹⁹. The full Terms of Reference (TOR) for both reports are provided in Annex 4.

The approach to establishing and implementing a community-based fisheries management initiative proposed in this document is based on the assumption that the regulations are in place establishing Inland Fisheries Committees. Detailed recommendations for draft regulations are contained in the initial report. Without such regulations the potential for developing local community-based fisheries management is very limited. It is strongly recommended that the project work closely with the MFMR to ensure that these regulations are promulgated.

The implementation approach proposed rests on the following:

- Integrated resource management through conservancies
- Integrated support to communities through partnerships between support agencies
- Use of two pilot sites where fisheries committees have already been established (Lisikili/Maningimanzi and Kalimbeza in the emerging Sikunga Conservancy)
- Focus on fishermen as a resource user group within conservancies
- Use of provisions in existing fisheries legislation
- Project funding support to community fisheries management until legislation allows conservancies to collect licence fees and the funding of management activities through fishing lodges becomes possible.

It is aimed at achieving the following:

(1) A conservancy is recognised as an Inland Fisheries Management Committee (IFC) under the Inland fisheries Resources Act of 2003 and acquires management rights over the fisheries resource within the jurisdiction of the conservancy.

(2) The conservancy establishes a Fisheries Management Committee (or committees) as a sub-committee of the conservancy which is responsible for managing fisheries.

(3) The Fisheries Management Committee (FMC) represents an identified group of fishermen who benefit from fishing in the specific body of water.

(4) Local fishing rules and regulations are developed by the fishermen and the FMC.

(5) Where appropriate, the declaration of a water body or part of the river within the FMC or conservancy area as a fisheries reserve managed by the conservancy/FMC.

¹⁹ This initial report is titled: "Developing community-based fish management in the Zambezi/Chobe river systems in Caprivi, Namibia: Findings and recommendations for devolving management authority to local communities".

[(6) If legislation is changed, collection of all fishing licence fees including sport angling fees by the FMC.]

(7) Appointment of local fish guards by the Conservancy, through the FMC.

(8) The development of funding links between existing fishing lodges (or new lodges where it would be viable to develop one) and the conservancy and its FMC.

(9) Incorporation of any fishing management areas and fisheries reserves into the overall management and zoning plans of the conservancy

(10) Where possible, joint fisheries management with Zambian fishermen.

The steps that need to be taken to develop community-based fisheries management linked to conservancies are:

Step 1: Initiation and application for recognition as an Inland fisheries Committee

During the initiation stage the following steps are necessary:

- (1) Integrating CBFM into the conservancy constitution and defining the relationship between the conservancy and its FMC;
- (2) Application to MFMR for IFC status;
- (3) Establishment of a Fisheries Management Committee.

Step 2: Fisheries Management

The following are the steps in developing fisheries management within a conservancy that has been recognised as an Inland Fisheries Committee:

- (1) Where appropriate, identify areas that could be declared fisheries reserves in terms of the legislation and work with the traditional authority to apply to MFMR to have the areas declared. Investigate the potential for the areas of water where fishing lodges are located to be declared as fisheries reserves.
- (2) The FMC, in conjunction with the local fishermen, develops rules for the use of the fisheries resource.
- (3) The FMC, in conjunction with the local fishermen, appoints fish guards responsible for enforcing the fishing rules and for monitoring the fish resources.
- (4) Develop joint management approaches with existing or new fishing lodges.
- (5) Incorporate fishing management areas and fisheries reserves into the overall management plan and zoning of the conservancy.
- (6) Where appropriate, work with neighbouring Zambian fishermen to have fish management areas declared on the Zambian side for the same body of water being managed by a Namibian FMC, and the establishment of Zambian fishing management committees which can work with their Namibian counterparts. This will likely require some technical and logistical support to the Zambians if this is not provided by the Zambian government or NGOs.

Step 3: Income generation

The aim should be for the conservancy and the FMC to fully fund the fish management activities. If the legislation is changed, the FMC would collect licence fees, 75% of which it

would retain and 25% of which it would pay to the MFMR. These fees should be used to cover management activities.

Income for fisheries management can also be generated from tourism, and particularly sport angling. Where a fishing/tourism lodge is established within a defined body of water managed by an FMC, the conservancy should allocate an agreed portion of the income from the lodge directly to the Fisheries Management Committee for expenditure on fisheries management and on specific benefits to the fishermen represented by the FMC.

In each conservancy the income generation potential needs to be explored. At Maningimanzi the potential for developing a fishing lodge should be investigated, while in Sikunga emerging conservancy contracts need to be negotiated with the existing lodges.

The report provides a series of tables which provide a description of the activities required to implement these steps, the input required from support agencies and who should be responsible for implementation.

1. Introduction

1.1 Background

This report has been commissioned by the Integrated Management of the Zambezi/Chobe River System Transboundary Fishery Resource Project. The goal of the project is:

“The shared Zambezi/Chobe River fisheries resources managed sustainably through transboundary coordination and collaboration after the introduction of fully integrated fishery management systems”.

The project purpose is:

“By mid 2009 alternative community fishery management practices piloted and tested and these contribute to a fully integrated management system for subsistence, semi-commercial, and sport fisheries that will provide optimal benefits to all stakeholders who are reliant on this valuable resource”.

The project is an initiative of the Ministry of Fisheries and Marine Resources (MFMR) supported by the World Wide Fund for Nature (WWF) and the Namibia Nature Foundation (NNF). The project is funded by NORAD and WWF-Norway, with matching contributions from the MFMR.

This report makes recommendations for implementing a local CBFM initiative that is integrated with existing CBNRM initiatives in the Caprivi Region. It provides an implementation approach and the steps and inputs required to develop CBFM in the Zambezi/Chobe river systems. This report is the companion to an initial report which analyses how CBFM can be achieved in the Zambezi/Chobe rivers systems through the existing provisions of the Inland Fisheries Resources Act of 2003 and suggests how these provisions could be strengthened²⁰. The full Terms of Reference (TOR) for both reports are provided in Annex 4.

The findings and recommendations in this report are partly based on the results of a field visit to the eastern Caprivi from August 16-23. During this period meetings were held with the project coordinator, Dr Ben van der Waal, officials of the MFMR, traditional authorities and local fishermen. Sites were visited that have potential for developing CBFM approaches that could be integrated with community-based management of other renewable natural resources. A list of meetings held and persons consulted is provided as Annex 2.

The Inland Fisheries Resources Act of 2003 makes provision for the Minister to make regulations providing for the establishment of Inland Fisheries Committees for the purpose of managing the fisheries in particular water bodies and to define the functions, powers and duties of these committees. This is the main provision in the

²⁰ This initial report is titled: “Developing community-based fish management in the Zambezi/Chobe river systems in Caprivi, Namibia: Findings and recommendations for devolving management authority to local communities”.

existing legislation which would enable community-based inland fisheries management to take place. As yet, the Ministry of Fisheries and Marine Resources (MFMR) has not made such regulations, but the initial report referred to above makes recommendations for the development of these regulations.

The approach to establishing and implementing a community-based fisheries management initiative proposed in this document is based on the assumption that the recommendations of the initial report are adopted and that regulations are in place for establishing Inland Fisheries Committees. Without such regulations the potential for developing local community-based fisheries management is very limited. It is strongly recommended that the project work closely with the MFMR to ensure that these regulations are promulgated.

The Act also makes provision for the Minister to declare a Fisheries Reserve on the request of a traditional authority. While the legislation says no-person may fish in a Fisheries Reserve without the permission of the Minister, it should be possible to enable an Inland Fisheries Committee (IFC) recognised under the Act to manage a Fisheries Reserve. The implementation approach set out in this document also assumes that regulations will be in place to enable an IFC to manage a Fisheries Reserve.

1.2 Methodology

The recommendations for implementing CBFM contained in this report are based on the specific needs of community management of fisheries resources, but are also based on the lessons learned by NGOs and Government officials from more than 10 years of implementation of the Namibian communal area conservancy programme. The proposals are specifically intended for implementation in the Zambezi/Chobe river systems, but are sufficiently generic and adaptable for other areas of Namibia, particularly the fishing communities in the Kavango Region.

2. Implementation Approach for developing a local fisheries CBNRM initiative in the Zambezi-Chobe River system

This Section sets out a proposed implementation approach for developing a local fisheries community-based natural resource management (CBNRM) initiative in the Zambezi/Chobe river systems. It provides the broad framework within which field facilitation should take place. More detailed consideration of the steps in developing such an initiative and the inputs required are provided in Section 3.

The implementation approach proposed rests on the following:

- Integrated resource management through conservancies
- Integrated support to communities through partnerships between support agencies
- Use of two pilot sites where fisheries committees have already been established
- Focus on fishermen as a resource user group within conservancies

- Use of provisions in existing fisheries legislation
- Project funding support to community fisheries management until legislation allows conservancies to collect licence fees and the funding of management activities through fishing lodges becomes possible.

It is aimed at achieving the following:

(1) A conservancy is recognised as an Inland Fisheries Management Committee (IFC) under the Inland fisheries Resources Act of 2003 and acquires management rights over the fisheries resource (i.e. the fish life and its habitat) within the area of jurisdiction of the conservancy.

(2) The conservancy establishes a Fisheries Management Committee (or committees) as a sub-committee of the conservancy which is responsible for managing fisheries in a specific body of water on behalf of the conservancy.

(3) The Fisheries Management Committee (FMC) represents an identified group of fishermen who benefit from fishing in the specific body of water.

(4) Local rules and regulations are developed by the fishermen and the FMC for using the specific body of water being managed. Such rules may differ from the provisions of legislation but may not contradict the Act. Traditional authorities would be involved in setting and enforcing these rules.

(5) Where appropriate the declaration of a water body or part of the river within the FMC or conservancy area as a fisheries reserve and the delegation of management of the reserve by the Minister to the Conservancy (as the recognised Inland Fisheries Management Committee).

[(6) If legislation is changed, collection of all fishing licence fees, including sport angling fees, by the FMC.]

(7) Appointment of local fish guards by the Conservancy, through the FMC, with responsibility for enforcing the locally developed rules and regulations for the managed body of water and for monitoring fish resources.

(8) The development of funding links between existing fishing lodges (or new lodges where it would be viable to develop one) and the conservancy and its FMC.

(9) Incorporation of any fishing management areas and fisheries reserves into the overall management plan and zoning plan of the conservancy, and where appropriate, into the tourism plan for the conservancy.

(10) Where possible, joint fisheries management with Zambian fisheries management committees, which could include jointly managed fisheries reserves on both sides of the river.

2.1 Integrated resource management through conservancies

The implementation approach for developing a local CBNRM fisheries initiative in the Zambezi/Chobe river systems is based on assisting local communities to develop integrated resource management. This means the community receives rights over a number of different resources and manages these resources in a holistic way. This, in turn, means the community can weigh up for itself where and how it wants to use different resources on its land and which are the most beneficial uses of the land.

Conservancies are potentially useful means for promoting integrated natural resource management at the community level. Although they are formed under wildlife legislation and gain rights over wildlife and tourism, they have a number of advantages as a means for managing other resources. Conservancies are legal bodies that can enter into contracts with the private sector and can therefore provide the umbrella institution under which a number of different activities can take place. For example links can be made between income from fishing lodges and fisheries management (see sub-section 2.6 below).

Conservancies also provide practical and logistical advantages for developing community-based fisheries management. They usually have an office from which the administrative tasks that accompany management activities can be carried out. The office can assist in keeping records and files particularly if licensing is devolved to the local level (see below). Conservancies carry out monitoring of wildlife and vegetation through the event book system which is already geared towards monitoring the fisheries resource. Conservancies also usually have a vehicle and telecommunications which facilitate communication within the conservancy and with government and other external agencies. Through their infrastructure, available financial and human resources, and legal recognition, conservancies provide useful economies of scale for the development of community-based fisheries, while at the same time providing the flexibility for the resource to be managed at an appropriate local scale. In addition, most Caprivi conservancies have collective cash income that can be used to employ staff, thereby creating permanently funded positions to assist with community extension, resource management and monitoring.

2.2 Integrated support through partnerships

Implementation of a CBFM initiative in the Zambezi/Chobe River systems should be carried out by a partnership of organisations. This is important because:

- (i) The MFMR should be involved in the CBFM initiative through ensuring legal compliance and providing extension support to FMCs in conservancies. However, MFMR has limited capacity because of the small number of staff based in Caprivi and their low level of seniority.
- (ii) The Zambezi/Chobe River System Transboundary Fishery Resource Project does not have the capacity to implement a CBFM initiative on its own.
- (iii) Neither MFMR nor the project has the capacity to promote the establishment of new conservancies, which might be required in some cases, nor do they have strong links to existing conservancies.

- (iv) The NGO, Integrated Rural Development and Nature Conservation supports conservancies in Caprivi but has no fisheries management capacity.

The following is recommended for the development of a support team for developing a CBFM initiative:

(1) Using available project funds, a community facilitator is employed by IRDNC, to work with communities on developing CBFM.

(2) The facilitator should be guided on technical issues relating to fisheries management by the project coordinator and should liaise closely with IRDNC personnel regarding integrating fisheries management within conservancies.

(3) IRDNC should support the integration of CBFM in conservancies through assisting conservancies to integrate CBFM into their visioning, management planning framework, constitutions and institutional arrangements as indicated in Section 3.

(4) MFMR should allocate one of the existing fisheries inspectors or other personnel in Caprivi to work with the community facilitator and IRDNC to provide extension support to conservancies and their FMCs.

This support team should also develop a partnership with counterpart organisations in Zambia to explore joint fisheries management, and where appropriate should work to sign joint agreements with the Zambian government and Zambian fishing management committees.

2.3 Community and Site selection

Given capacity and funding constraints, the project should focus on two pilot communities in order to test the application of the existing legislation and to test the approach proposed in this report. Two sites are proposed partly because the project has already assisted two groups of fishermen to establish Fishing Management Committees, in the Lisikili area and in the Kalimbeza area of the emerging Sikunga Conservancy. Further, the Lisikli committee has the potential to develop a fisheries reserve in the Maningmanzi area linked to sport angling and other tourism activities, particularly if it is also developed as a conservancy. It has also been identified as a priority area for conservation (Mendelsohn and Roberts 1997) and the Mfooma sub-khuta of Lisikili has expressed support for having this area declared a fisheries reserve. The emerging Sikunga Conservancy already has two fishing lodges within its boundaries and this provides the potential for linking income from the lodge to fisheries management through the existing FMC. The Kalimbeza channel has also been previously suggested as a fisheries reserve.

However, choosing these sites has some potential disadvantages. Although there is an emerging conservancy at Sikunga being supported by IRDNC, it could still take some time before the Ministry of Environment and Tourism registers this

conservancy. At Lisikili/Maningimanzi, previous attempts to form a conservancy failed due to problems regarding boundaries and it could take some months to resolve these issues before a conservancy is ready for registration providing everything goes smoothly (e.g. community agreement, negotiation of boundaries, registration of members, constitution development, endorsement by the traditional authority, etc.).

At the same time, it will take some months before MFMR promulgates the necessary regulations for CBFM to be established and work on the conservancies and FMCs can continue in parallel to efforts to get new regulations in place. Further, expectations have been raised with the existing two FMCs and there is considerable enthusiasm in these committees to establish some form of local fisheries management. For these reasons it is recommended that the project focus on working with the existing two FMCs and that strong support is given to conservancy formation in the Lisikili/Maningimanzi area²¹.

2.4 Focus on fishermen as a resource user group within conservancies

Fisheries management should be developed within conservancies such that while the conservancy serves as the umbrella organisation, management activities are carried out by identified groups of fishermen. It will be necessary to identify the users of a particular body of water and these users should be the group that elects an FMC and works together to develop rules and regulations governing fishing activities. It will also be necessary to establish whether there are any existing rules for fisheries management in a particular area.

Based on a very limited number of interviews carried out in Caprivi during August 2008, there seem to be few traditional management rules that apply to fishing as carried out currently. In some areas people interviewed said there had been no need for fishing rules in the past except for a ban on the use of poison but now that the fishing had been commercialised and different types of net were available there was a need for rules and controls. In parts of Caprivi rights to fish in a certain area seem to be passed on from father to son and Mendelsohn and Roberts (1997) also refer to access to fishing grounds being based on territorial rights. If this is still the case then it will be important to ensure that these access rights are identified and taken into account when establishing FMCs, identifying bodies of water to be managed and in applying to have fisheries reserves declared. Anybody with access rights to fishing areas should be fully involved in all these processes. The sub-khutas for a particular area should also be fully involved and should provide their endorsement of an FMC and any declaration of a fisheries reserve. Indeed in terms of current legislation, the request to MFMR for the declaration of a fisheries reserve within a conservancy should come from the traditional authority (see below).

2.5 Use of provisions in existing fisheries legislation

²¹ An alternative to Maningimanzi would be to focus on a conservancy such as Kasika or Impalila which has already initiated fisheries management activities such as monitoring and confiscation of illegal nets.

Conservancies and Fisheries Management Committees

In order to promote fisheries management through conservancies, it will be necessary for the conservancy to be recognised as an Inland Fisheries Committee (IFC) in terms of the Inland Fisheries Resources Act of 2003 (see Annex 1). However, the conservancy is likely to cover a larger area of land and water than the scale at which it is appropriate for fisheries management to take place. A means needs to be found for the conservancy to devolve fisheries management to a smaller management unit within the conservancy. This can be done by the conservancy establishing a Fisheries Management Committee (FMC)²² as a sub-committee of the conservancy representing an identified group of fishermen who use a specific body of water. The conservancy then exercises its management rights obtained in terms of the legislation through this sub-committee. It will be important to ensure that the relationship between the Conservancy as Inland Fisheries Committee and the Fisheries Management Committee as a sub-committee of the Conservancy is clearly defined in the Conservancy Constitution, and that their roles and responsibilities are also clearly defined.

Fisheries reserves

Provision is made in the current fisheries legislation for the declaration of fisheries reserves by the Minister (see Annex 1). The Minister may declare a reserve at his/her discretion or on request by a traditional authority. If a conservancy and its FMC wishes to have a fisheries reserve declared, it will have to channel this request to MFMR through the appropriate traditional authority.

2.6 Funding

Where fishing lodges exist in a conservancy, such lodges would be expected to enter into partnerships with the conservancy and pay various fees to the conservancy in recognition that they are using the community land and in recognition of the conservation efforts of the community. In cases where there are fishing lodges some of the income can be ploughed back into fisheries management by the conservancy and the community can also benefit from income linked to sustainable fisheries management. This in turn, will help provide an incentive for continued sustainable management of the resource. In addition fishing lodges could pay fees to enter and fish (catch and release) inside conservancy fishing reserves. It is also hoped that through changes to the legislation or regulations, that FMCs in conservancies will be able to raise income through the sale of fishing licences and the rights to concessions for sport fishing. It will take some time however, for these funding arrangements to be in place. In the same way that conservancies have been provided with small grants to help them get operational and institute resource management activities before they earn their own income, the FMCs should be

²² I have used this approach because of the existing fishing committees and the need for fisheries to be managed at a smaller scale than the overall conservancy. The main conservancy committee should not be directly responsible for fisheries management, rather the people who are closer to the resource and who are the resource users. There needs to be a sub-committee of the conservancy responsible for fisheries management, but which reports to the main committee.

supported with external donor funding to assist their initial activities. This should include the employment of fish guards.

3. Steps in developing a Community-based Fisheries Management Initiative

This section sets out the steps that need to be taken to develop community-based fisheries management linked to conservancies. It sets out the steps required to develop CBFM at Maningimanzi and in the emerging Sikunga Conservancy where there are existing fishing management committees. The steps detailed here can be adapted for other situations such as where an existing conservancy wishes to gain the status of an IFC.

3.1 Initiation and application for recognition as an IFC

The project should approach IRDNC to provide support for establishing a conservancy in the Maningimanzi area (the steps and inputs required for conservancy formation and registration are provided in Annex 3). When interviewed in August 2008, members of the existing Fishing Committee from this area said the community was forming a conservancy but did not seem to have support from IRDNC. This perspective was reinforced by IRDNC personnel in Katima Mulilo who were not aware of the formation of a conservancy in this area. The project should begin to work closely with IRDNC in the development of the Sikunga Conservancy so CBFM can be integrated at an early stage.

During the initiation stage the following steps are necessary:

- (1) Integrating CBFM into the conservancy constitution and defining the relationship between the conservancy and its FMC

For both Lisikili/Maningimanzi and the emerging Sikunga Conservancy, the project community fisheries facilitator should work closely with IRDNC in the formation of the conservancy to ensure the following:

- i Sustainable fisheries management is included as an objective of the conservancy in its vision, goals and objectives and in its management plan framework;
- ii Institutional links are established between the conservancy and the existing Fishing Management Committee through appointing the existing FMC as the Fisheries Management Sub-committee of the conservancy. This should be done by ensuring that the conservancy constitution:
 - Includes sustainable fisheries management as one of the objectives of the conservancy
 - Makes provision for the establishment of a Fisheries Management Sub-committee or committees of the conservancy, which would carry out fisheries management on behalf of the conservancy for defined

bodies of water within the conservancy and be known as Fishing Management Committees

- Provides for the FMCs to be represented in the conservancy management committee
- Provides for the FMCs to retain any income from fisheries management that they raise (e.g. through sale of fishing licences and fishing concessions)
- Clearly spells out the roles and functions of the FMCs and the roles and functions of the Conservancy Management Committee with regard to CBFM. For example, the day-to-day fisheries management should be in the hands of the sub-committees while the conservancy management committee should have a supervisory role to ensure the FMC manages its finances properly, provides regular reports to the conservancy management committee, remains representative of local fishermen, etc.

(2) Application to MFMR for IFC status

During the conservancy formation stage, the conservancy should be assisted to meet any conditions set by the Inland Fisheries Resources Act for recognition as an Inland Fisheries Committee (IFC). These conditions will depend on the new regulations that still have to be approved by MFMR for the recognition of IFCs. Once these conditions have been met, then the conservancy should be assisted to apply to the MFMR for recognition as an IFC. It is likely that there will need to be a description of the boundaries of the body of water to be managed and a management plan (see separate report “Developing community-based fish management in the Zambezi/Chobe river systems in Caprivi, Namibia: Findings and recommendations for devolving management authority to local communities”).

(3) Establishment of a Fisheries Management Committee

Also during the conservancy formation stage, the conservancies should establish a locally-based Fisheries Management Committee (FMC) which is responsible for managing defined bodies of water (these committees would be established at the level most appropriate for each case, which could often be the level of the sub-khuta). At Maningimanzi and Sikunga, there are existing FMCs. The project facilitator should work with these committees to ensure that they are representative of and have the support of the local fishermen who use the body of water the committees have been established to manage. The facilitator should also work with the FMCs to ensure that any fishermen with existing traditional fishing rights are included in the process and that the initiative has the support of the relevant traditional authority. Table 1 sets out the steps and inputs required for the initiation of CBFM and the application for recognition as an IFC.

Table 1. Steps for initiating CBFM

Steps	Support activities	Skills & capacity required by support agencies	Responsible
<i>1. Integrating CBFM into the conservancy</i>			
1.1 Sustainable fisheries management included in conservancy vision & planning frameworks	Work with conservancy committee & members to develop goals and objectives for sustainable fisheries management; Assist conservancy to include this in its vision and planning framework.	Facilitation of discussion around sustainable fisheries, appropriate goals and objectives, and how the conservancy might manage fisheries. Knowledge of the fisheries legislation.	Project community fisheries facilitator/MFMR/IRDNC
1.2 Relationship between conservancy and FMC defined in conservancy constitution	Work with conservancy committee and any existing FMC to ensure the FMC is provide for in the conservancy constitution and the relationships are well defined.	Skills in facilitation and constitution development.	Project community fisheries facilitator/IRDNC
<i>2. Formation of a Fisheries Management Committee</i>			
2.1 Identify body of water to be managed	Help conservancy/existing FMC to identify and map the boundaries of the body of water to be managed.	GPS and mapping skills	Project community fisheries facilitator/MFMR
2.2 Identify the fishermen who use the identified body of water	Assist the conservancy to identify the fishermen who use the body of water to be managed and hold meetings to discuss the formation of the FMC	Facilitation skills (involvement of all key stakeholders – e.g. who has rights to fish in the area, will women using the area for fishing, collecting veld food, etc, be affected?).	Project community fisheries facilitator/MFMR
2.2 Elect a Fisheries Management Committee	Assist the conservancy with logistics and technical support to elect the FMC.	Facilitation skills.	Project community fisheries facilitator/MFMR
<i>3. Application for IFC status</i>			
3.1 Meet all legal requirements for obtaining IFC status	Work with conservancy to meet the legal requirements	Knowledge of legislation and application procedure.	Project community fisheries facilitator/MFMR
3.2 Fill in any application form required by legislation for obtaining IFC status	Work with conservancy to ensure application form is filled in correctly and sent to MFMR with all necessary information & attachments.	Knowledge of legislation and application procedure.	Project community fisheries facilitator/MFMR

3.2 Fisheries Management

Once a conservancy has been recognised by MFMR as an IFC, then it has the authority to initiate fisheries management activities. The following are the steps in developing fisheries management within the conservancy:

- (1) Where appropriate, identify areas that could be declared fisheries reserves in terms of the legislation and work with the traditional authority to apply to MFMR to have the areas declared. Investigate the potential for the areas of water where fishing lodges are located to be declared as fisheries reserves.
- (2) The FMC in conjunction with the local fishermen develops rules for the use of the fisheries resource.
- (3) The FMC in conjunction with the local fishermen appoints fish guards responsible for enforcing the fishing rules and for monitoring the fish resources through the Event Book System.
- (4) Develop joint management approaches with existing or new fishing lodges.
- (5) Incorporate fishing management areas and fisheries reserves into the overall management plan and zoning of the conservancy.
- (6) Where appropriate work with neighbouring Zambian fishermen to have fish management areas declared on the Zambian side for the same body of water being managed by a Namibian FMC, and the establishment of Zambian fishing management committees which can work with their Namibian counterparts. This will likely require some technical and logistical support to the Zambians if this is not provided by the Zambian government or NGOs.

Table 2. Steps for developing fisheries management activities

Steps	Support activities	Skills & capacity required by support agencies	Responsible
<i>1. Establishment of fisheries reserves</i>			
1.1 Identify area for fisheries reserve	Initiate discussion with FMC and fishermen about areas that could be declared fish reserves. Discuss status of the fisheries resource and whether it needs to be built up through having an area with no consumptive fishing. Identify and map any area that should be declared a fisheries reserve.	Knowledge of legal provisions for fisheries reserves. Facilitation skills. Good ecological and local fish biology knowledge.	Project coordinator/ Community fisheries facilitator/MFMR
1.2 Apply to MFMR to have area declared a fisheries reserve	Assist conservancy to make application through the Traditional Authority (as provided for in the legislation)	Knowledge of legal provisions for fisheries reserves. Ability to negotiate and persist.	Project community fisheries facilitator/MFMR
<i>2. Develop local rules for fisheries management</i>			
2.1 Identify what needs to be done to achieve sustainable fisheries management	Help FMC and fishermen to identify problems, and solutions that can lead to	Facilitation skills, knowledge of fisheries management.	Project coordinator/ Community fisheries facilitator/MFMR

	sustainable fisheries management.		
2.2 Reach agreement on any restrictions on fishing methods, times, locations, etc.	Assist the FMC and fishermen to reach agreement on any restrictions that may be necessary on fishing activities.	Facilitation skills, knowledge of fisheries management.	Project coordinator/ Community fisheries facilitator/MFMR
2.2 Appoint fish guards to help enforce the rules decided on and monitor the fisheries resource through the Event Book system	Assist the FMC in the appointment of fish guards. Provide initial funding for the guards until FMC/conservancy can pay for them. Support use of Event Book system.	Facilitation skills. Knowledge of Event Book System	Project community fisheries facilitator/MFMR Project funding IRDNC/community fisheries facilitator
3. Joint management with fishing lodges			
3.1 Establish joint management of waters where there are fishing lodges.	Assist FMC to negotiate with fishing lodges joint management of waters around lodges. (Could be part of a fisheries reserve or agree local people won't fish in an area around the lodge, and anglers will only catch and release, etc.) Link this to income to the conservancy/FMC from the lodge.	Facilitation and negotiation skills, familiarity with lodge owners/managers, sport angling.	IRDNC/project community fisheries facilitator
3.2 Establish written agreements with the lodge operators	Assist conservancy to develop and sign an MOU with the lodge operators regarding joint management roles and responsibilities and how lodge can assist the FMC.	Facilitation and negotiation skills, familiarity with lodge owners/managers, sport angling.	IRDNC/project community fisheries facilitator
4. Joint management with Zambian fishermen (where appropriate on a body of water with an international boundary)			
4.1 Investigate potential for joint management	Assist FMC to initiate discussions with Zambian fishermen and to identify joint problems and potential solutions.	Facilitation, knowledge of Zambian situation on the ground	Project coordinator/ Community fisheries facilitator/MFMR
4.2 Establish Zambian fisheries management committee/work with an existing committee	Work with Zambian Dept. of Fisheries to assist Zambians to form a fisheries management committee in terms of Zambian legislation that can work with the Namibian FMC. Or work with an existing committee.	Knowledge of Zambian legislation, facilitation, cooperation with Zambian authorities.	Project coordinator/ Community fisheries facilitator/MFMR
4.3 Support Zambian management committee in its operations	If a committee is established or there is an existing one, provide technical and logistic support as appropriate	Institutional aspects of developing and running a committee (ensuring representativeness	Project community fisheries facilitator/Zambian fisheries officials

	to make the committee effective in its co-management with the Namibians.	etc.), knowledge of Zambian legislation and operating environment.	
4.4 Develop joint management between Namibian and Zambian fishermen	Facilitate discussions between Namibians and Zambians to identify specific joint management activities, and joint approaches to fisheries management	Facilitation and Technical knowledge of fisheries management.	Project community fisheries facilitator/Zambian fisheries officials

3.3. Income generation

The aim should be for the conservancy and the FMC to fully fund the fish management activities. If the legislation is changed, the FMC would collect licence fees, 75% of which it would retain and 25% of which it would pay to the MFMR. These fees should be used to cover management activities.

Income for fisheries management can also be generated from tourism, and particularly sport angling. Where a fishing/tourism lodge is established within a defined body of water managed by an FMC the conservancy should allocate an agreed portion of the income from the lodge directly to the Fisheries Management Committee for expenditure on fisheries management and on specific benefits to the fishermen represented by the FMC.

In each conservancy the income generation potential needs to be explored. At Maningimanzi the potential for developing a fishing lodge should be investigated, while in Sikunga contracts need to be negotiated with the existing lodges.

Table 1. Steps for developing fisheries-based income generation

Steps	Support activities	Skills & capacity required by support agencies	Responsible
<i>1. Collection of licence fees (if new legislation, regulations allow)</i>			
1.1 Obtain permission to issue licences by lodges and FMCs	If legislation changes, assist conservancies/FMCs to gain authority to collect fees and issue licences.	Negotiation with MFMR and Regional Councils	Project coordinator
1.1 Establish collection system	Work with FMC & conservancy committee to establish collection system including persons appointed to issue licences and collect fees, places where licences can be issued, management of money, opening of bank account, etc.	Facilitation, financial management.	IRDNC/Project community fisheries facilitator
<i>2. Tourism development</i>			
2.1 New fishing lodge development	<p>Assist FMC/conservancy to carry out feasibility studies to identify whether new fishing lodges could be developed. If appropriate assist in negotiating funding/contracts with private sector.</p> <p>Assist FMC/conservancy arrange for income from the lodge to be linked to fisheries management and channelled to fund management activities. Contracts should include joint fisheries management.</p>	Facilitation, negotiation of contracts with private sector.	<p>IRDNC/project community fisheries facilitator</p> <p>IRDNC/project community fisheries facilitator</p>
2.2 Negotiate with existing lodges	<p>Where there are existing fishing or tourism lodges, assist FMC/conservancy to negotiate appropriate contracts with the lodges.</p> <p>Assist FMC/conservancy arrange for income from the lodge to be linked to fisheries management and channelled to fund management activities. Contracts should include joint fisheries management.</p>	Facilitation, negotiation of contracts with private sector.	IRDNC/project community fisheries facilitator

Figure 1. Officials of the MFMR discuss opportunities for community-based fisheries management with fishermen and members of the Fisheries Committee at Lisikili (Photo by Olga Jones).



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ANNEX 1
SUMMARY OF LEGAL PROVISIONS FOR COMMUNITY-BASED FISHERIES
MANAGEMENT IN NAMIBIA AND ZAMBIA

Namibia

The Inland Fisheries Resources Act (No. 1 of 2003) provides for the conservation and protection of aquatic ecosystems and the sustainable development of inland fisheries resources and the control and regulation of inland fishing (GRN 2003). With regard to community-based fisheries management the following is particularly relevant:

Fisheries reserves

In terms of Section 22(1) of the Act, the Minister may declare any area of inland water to be a fisheries reserve on his/her own initiative or in response to an initiative of a regional council, local authority or traditional authority if the Minister believes that this will promote the conservation of the fisheries resource and related ecosystem. No fishing may take place in a fisheries reserve without the written permission of the Minister.

A traditional authority may request the Minister to declare a fisheries reserve and could do this on behalf of an inland fisheries committee supported by that traditional authority. It could be possible for the Minister under Section 29(2)(c) to give management powers and functions over a fisheries reserve to an inland fisheries committee.

Fisheries inspectors

Enforcement of the legislation is carried out by fisheries inspectors of the MFMR. However, the Minister may designate as a fisheries inspector a staff member of other specified ministries, a regional council or local authority or a person nominated by a traditional authority. The Minister may delegate to such designated inspectors or to a person employed by a regional council or a local authority council the powers provided to the Minister under the Act except for the power to make regulations.

Under Section 23(3) the current legislation enables the Minister to appoint a person nominated by a traditional authority as an inspector and this would mean that such a person would have the powers of inspectors set out in Sections 25 and 26. The Minister may, according to his/her discretion, and in consultation with the Minister of Finance determine the remuneration to be paid to an inspector nominated by a traditional authority and appointed by the Minister. However, this remuneration is not mandatory. The legislation does not specify that such a person must be a *member* of a traditional authority, but should be *nominated* by a traditional authority. This means that for the purposes of community-based fisheries management a traditional authority could nominate a member of the traditional authority or a community member to be an inspector. An inland fisheries management committee established under Section 29(2)(c) could therefore recommend a community member identified to be a local fish guard to the traditional authority for nomination as an inspector to

be appointed under Section 23(3). If the fishing committee was able to pay the fish guard/inspector then the MFMR would not have to do this itself.

Inland fisheries committees

Under Section 29(2)(c) the Act enables the Minister to make regulations which “provide for the establishment of inland fisheries committees for purposes of managing the fisheries in particular water bodies or in particular areas and define the functions, powers and duties of such committees”. This provides the opportunity for the Minister to provide different powers and functions as may be appropriate for different committees in different sets of circumstances. Under this section the Minister could delegate authority for managing the fisheries resources to inland fisheries committees and define their powers and functions. These powers and functions could include prevention of illegal fishing and fish methods, monitoring of resource use, application to the MFMR for the declaration of a closed season, and regular reporting to the MFMR.

In summary the present legislation allows for the following:

- ✓ The establishment of inland fisheries management committees through regulations which need to define the powers and functions of the committee as well as how it will be established, how it will organise its affairs, and how it is accountable to local resource users/community members.
- ✓ Traditional authorities to nominate persons to be appointed fisheries inspectors by the Minister.
- ✓ The declaration of fisheries reserves at the request of a traditional authority.
- ✓ Potentially the assignment of powers to manage a fisheries reserve to an inland fisheries committee

Together the above provide a foundation for the development of community-based fish management, *provided* that there is good cooperation between inland fisheries committees and traditional authorities and *provided* that the MFMR develops appropriate regulations and is flexible and supportive in its approach. However it is difficult to address the issue of licensing and licence fees without amending existing legislation.

Zambia

The Fisheries Act of 1974 provides for the control and regulation of inland fisheries and provides for the establishment of fishing development committees for specific areas of water (GoZ 1974) . An Amendment Act of 2007 makes greater provision for the establishment of community-based fisheries and delegation of power by the Minister to manage fisheries (GoZ 2007). The provisions most relevant for community-based fisheries management are as follows:

Fishing Development Committees

For the better co-ordination and improvement of commercial fishing in any commercial fishing area, the Minister may appoint a Fishing Development Committee which must submit reports to the Minister. The members of any Fishing Development Committee shall be appointed by the Minister under such terms and conditions and for such periods as the Minister may prescribe.

The Fisheries Amendment Act of 2007 extends the concept of the fishing development committees by making provision instead for the establishment of management committees for specific fisheries management areas. The Minister may declare any area of water to be a fisheries management area for the management and sustainable utilisation of such species of fish as may be specified in the order. A licence is required in order to fish in a fisheries management area.

Fisheries Management Committees

In terms of the Amendment Act the Minister must appoint a Fisheries Management Committee for each fisheries management area. The committee must consist of the following:

- (a) six representatives from the local riparian fishing community who shall be elected by the local community;
- (b) one representative of the local authority in the fisheries management area;
- (c) one representative of the chief;
- (d) one representative of a non-governmental organisation operating in the fisheries management area;
- (e) one representative from the fishing industry;
- (f) one representative from the aquaculture industry; and
- (g) two other persons:

The amendment Act stipulates that where the fisheries management area is in a game management area (GMA), the Minister shall appoint the committee in consultation with the community resource board for that area. A community resources board is established under the Zambia Wildlife Act of 1998 and is given management responsibility for wildlife in the GMA for which it is responsible (GoZ 1998). It also receives 50% of income from hunting within the GMA. The community resources boards in Zambia are the counterparts to communal area conservancies in Namibia although Namibian conservancies are able to retain all income from wildlife use and tourism.

The functions of a Fisheries Management Committee are to promote and develop an integrated approach to the management and sustainable utilisation of natural and fisheries resources in a fisheries management area under its jurisdiction. The committees have power to:

- (a) negotiate in conjunction with the Director, co-management agreements with industrial fishing companies operating in the fisheries management area under its jurisdiction;
- (b) manage the fisheries resources under its jurisdiction, within fishing quotas specified by the fisheries management plan;

- (c) in consultation with the Director, develop and implement management plans which reconcile the various uses of water in the fisheries management area under the committee's jurisdiction;
- (d) cooperate with the Department of Fisheries in the management of the fisheries management area under its jurisdiction;
- (e) facilitate the involvement of non governmental organisations providing support to fisheries management and conservation efforts in the fisheries management area under its jurisdiction;
- (f) recommend to the Director measures, plans and programmes required for fisheries development in the fisheries management area under its jurisdiction;
- (g) monitor the development of aquaculture in the fisheries management area under its jurisdiction;
- (h) submit to the Director, on a regular basis, reports on the status of the fisheries management area under its jurisdiction; and
- (i) perform such other functions as the Minister may direct.

Fisheries management plans

A fisheries management committee must prepare and implement a fisheries management plan which must:

- (a) identify the fishery to which it relates and state its characteristics and its current state of exploitation;
- (b) specify the objectives to be achieved in the conservation, management and development of the fisheries management area;
- (c) specify the strategies to be adopted for effective management and development of the fishery;
- (d) determine fishing quotas, the amount of fish which may be harvested, and the number of fishing licences which may be issued, in respect of the fishery, in any fishing season;
- (e) identify any possible adverse effects, that fishing activities in the fishery may cause to the environment and provide solutions for the management of those effects in accordance with the provisions of the Environmental Protection and Pollution Control Act;
- (f) specify the statistical and other data to be submitted by the Committee to the Director for purposes of monitoring the management and development of the fishery; and
- (g) where necessary, identify and recommend any international co-operation that may be needed to achieve the management and development objectives of the fishery.

Community funds

In terms of the Amendment Act a fisheries management committee must establish a fund which is to be used to enhance the economic and social well being of the local riparian community within a fisheries management area. The fund will receive income from revenues payable in respect of fishing and aquaculture licences issued under the Act and services rendered from the use of fisheries resources within a fisheries management area as may be prescribed by the Minister. The community

fund may also receive income from grants and donations from any source within or outside Zambia.

Fisheries and Aquaculture Development Fund.

The Amendment Act provides for the establishment of a national Fisheries and Aquaculture Development Fund which receives 50% of the monies collected from fishing and aquaculture licences and other fees payable under the Act and any funds budgeted by government for its operation. The income of the fund is used for the purposes of developing the fisheries and aquaculture sector and facilitating a community based approach to fisheries management and development.

Delegation of power

The Amendment Act enables the Minister to make regulations establishing and regulating community based or other decentralised fisheries management and any aspect of their operation including financial management and the granting or delegation of power to any person, class or group of persons to enforce or implement regulations relating to fisheries conservation and management.

**ANNEX 2
MEETINGS HELD AND PERSONS CONSULTED**

Date	Place	Meetings and Persons consulted
01.08.08	Windhoek	Dr Chris Brown, Director of NNF
18.08.08	Chinchimani	Attended meeting between Project coordinator, Dr Ben van der Waal, the Lisikili Fisheries Management Committee and the Linyanti Khuta regarding community-based fisheries management
	Maningimanzi	Meeting with the Lisikili Fisheries management Committee regarding community-based fisheries management in the Maningimanzi area.
19.08.08	Katima Mulilo	Meeting with MFMR fisheries Inspector Philemon lita and project coordinator. Visit to Katima Fish Market with project coordinator.
20.08.08	Lisikili	With project coordinator attended meeting between 2 MFMR fisheries inspectors and 24 local fishermen and members of the Lisikili Fisheries Management Committee.
	Kalizo Lodge	Discussion with Owner/manager of the Kalizo Fishing Lodge, Val Sparg, regarding sport angling, over fishing and problems with obtaining licences for sport anglers.
	Kalimbeza	Meeting with Kenneth Sefulo of the Kalimbeza Fisheries Management Committee regarding activities of the committee and potential links to the emerging Sikunga Conservancy
21.08.08	Ichingo River Lodge, Impalila Island	Meeting with Impalila Conservancy chairman and induna, Charles Matengu and conservancy manager, Calvin Maswahu regarding conservancy management of fisheries resources.
		Meeting with Ralph Oxenham, owners manager of Ichingo river Lodge regarding conservancy management of fisheries resources, status of fish resources, over fishing and impacts on sport angling as a tourism attraction.
		Visit to Kasika conservancy for planned discussion with management committee, but committee were attending another meeting.
22.08.08	Katima Mulilo	Meeting with John Kamwi, institutional development coordinator of IRDNC. Meeting with project coordinator.

ANNEX 3 STEPS IN CONSERVANCY FORMATION AND REGISTRATION

1) Initiation

The need and desire for forming conservancies has to come from the communities themselves. It is not the role of the MET or NGOs to actively establish conservancies, but to support and assist those communities who indicate they want to form a conservancy. The MET and Non-Governmental Organisations (NGOs) therefore need to provide appropriate information to communities about conservancies and the rights and responsibilities that are attached to them. This supportive role implies that MET and NGOs need to place a high degree of emphasis on *facilitation* i.e. not telling communities what to do, but helping them to understand and work through the many difficult issues and choices they will be faced with when forming a conservancy.

There are three important steps in the initiation phase of conservancies. *First the communities require information on conservancies*, the potential benefits from forming a conservancy, how to form a conservancy, the rights and responsibilities that come with registration and how to apply to MET for approval and registration. Second, if the community shows interest in forming a conservancy then it is important to *carry out a basic feasibility study* that assesses:

- (i) the assets of the conservancy
- (ii) the potential of the conservancy to generate income
- (iii) the social cohesion of the community (i.e. the likelihood that members will cooperate and work together)
- (iv) the biodiversity importance of the conservancy
- (v) the type of the conservancy

The procedure for making this assessment is contained in Annex 3. This assessment is important because it helps the community to decide if a conservancy is really appropriate for its particular circumstances. For example if there is little wildlife, little wild habitat and a high human population with land uses that conflict with wildlife, then it would be best not to form a conservancy. Or if the main aim of the community is to improve their rangeland and water management, then it would be best for them to approach the Ministry of Agriculture, Water and Forestry for support rather than MET.

The assessment also provides MET and its partners with an indication of the type of conservancy that is likely to emerge based on its assets such as tourism attractions and wildlife or other natural resources. The assessment also provides an indication of the biodiversity importance of the conservancy. Based on these factors, it is then possible to decide on the type of support that should be provided to the conservancy.

The third step is that the community decides to form a conservancy and informs MET of its decision.

Table 1 provides a summary of the Initiation stage in conservancy formation.

Table 1. The Initiation stage: Steps, support activities, capacity requirements and assistance

Steps	Support activities	Skills & capacity required by support agencies	Who assists
1. <i>Community awareness of CBNRM opportunities</i>			
1.1 Information to community members <ul style="list-style-type: none"> - what is a conservancy - the potential benefits from forming a conservancy - rights and responsibilities that come with being registered as a conservancy - how to apply for registration and what needs to be done to form the conservancy - community expresses initial interest 	Information materials developed & disseminated in local languages Community meetings	Good written communication and editing skills/local language translation Good oral communication skills and facilitation skills, knowledge of CBNRM/conservancy approach	MET regional services personnel, NGOs
1.2 Initial feasibility study to <ul style="list-style-type: none"> - assess the assets of the conservancy - assess the potential of the conservancy to generate income - assess the biodiversity importance of the conservancy - assess social cohesion - assess the category of the conservancy 	Facilitate rapid resource and other asset inventory and status assessment, economic assessment of income generation potential, assessment of social cohesion, analysis of data to assess the category of the conservancy and its viability	Facilitation skills, NRM and economic/business analysis, social analysis, knowledge of the different types of conservancy	MET regional services personnel assisted by regional biologist and if necessary by NGOs or others (e.g. tourism expert)
1.3 Community decides to form conservancy, informs MET	Community meetings to decide on proceeding with forming the conservancy	Facilitation, knowledge of legal requirements for forming conservancy	MET regional services personnel assisted if necessary by NGOs

2) Conservancy formation

Once a community has decided to form a conservancy following the initial feasibility study, it requires clear guidelines on what steps to follow so that it complies with the policy and legislation. There are four main steps in the formation process based on the requirements of the Nature Conservation Amendment Act (No. 5 of 1996) and the accompanying regulations.

First, the community needs to develop a new institution that is representative and can take decisions on behalf of the community. In order to do this, the community needs to:

- (i) Define the conservancy membership and who benefits
- (ii) Elect a committee to represent the members
- (iii) Develop a constitution which sets out the objectives of the conservancy, and its rules of operation. N.B. this step in institution building can only be completed once the boundaries have been defined as the boundaries of the conservancy need to be included in the constitution.

Second the community needs to define the boundaries of the proposed conservancy. This is an important step because it ensures that there are no conflicts with neighbouring communities in future over benefits from wildlife and tourism. It also helps to define the members of the conservancy. In order to define the boundaries, the community needs to identify the boundaries (e.g. clear physical features on the ground); negotiate and agree these boundaries with neighbours and finalise the boundary description and record the boundaries with a GPS.

Third the community needs to develop a preliminary benefit distribution plan that indicates the main objectives for community benefit. For example the community could decide to target the poor, the people most affected by Human Wildlife Conflict to provide benefits for all, or a combination of these and similar objectives. Deciding on the main objectives for benefit distribution will help to indicate how benefits should be distributed. The preliminary plan should give examples of how benefits will be distributed. Fourth the community needs to develop an initial game management and utilisation plan. Table 2 provides a summary of the Conservancy Formation stage.

Table 2. The Formation stage: Steps, support activities, capacity requirements and assistance

Steps	Support activities	Skills & capacity required by support agencies	Who assists
<i>2. Conservancy Formation process (institution building)</i>			
2.1 Definition of membership and who benefits (i.e. the community forming the conservancy)	Facilitation, advice on meeting MET's legal requirements	Facilitation in working through issues e.g. should non-residents be members, how long should someone be resident in the area to be eligible for membership etc.; knowledge of legal requirements for forming a conservancy	MET regional services personnel, NGOs
2.2 Establish representative committee	Facilitation, advice on meeting MET's legal requirements	Facilitation in working through issues of representation e.g. is the committee made up of elected individuals or representatives of sub-areas in the conservancy; skills in institution building, promoting accountability; knowledge of legal requirements for forming conservancy	MET regional services personnel, NGOs
2.3 Define boundaries <ul style="list-style-type: none"> - Identify boundaries - Negotiate boundaries with neighbours - Finalise and GPS boundaries 	Facilitation and mediation between conservancies over possible boundary disputes; assistance in surveying boundaries	Facilitation and conflict resolution; GPS skills	MET regional services personnel, NGOs
2.4 Develop map of the conservancy	Data base development, map production	Computer/GIS	Directorate Scientific Services
2.5 Draft constitution which sets out the objectives of the conservancy and its rules of operation <ul style="list-style-type: none"> - Hold meetings with conservancy residents to discuss components of the constitution - Compile first draft of constitution - Finalise constitution with legal advice 	Technical assistance/legal advice in developing the constitution; facilitation in developing a constitution that meets MET legal requirements and is also tailored to the needs and circumstances of each conservancy	Facilitation in working through each component of the constitution and assistance in ensuring that a participatory approach has been used to develop the constitution involving residents not just the committee; Legal expertise for drafting of constitution; knowledge of legal requirements for conservancy formation	MET regional services personnel, NGOs
2.6 Draft preliminary benefit distribution plan	Facilitation of deciding on main objectives for community benefit (e.g. target the poor, target those who suffer most from HWC), and on developing a basic plan for benefit distribution	Facilitation skills in setting objectives and helping the community reach a decision, knowledge of the ways in which conservancy income can improve livelihoods	MET regional services personnel; NGOs
2.7 Draft preliminary land use/game management and utilisation plan setting out plans and means for sustainable use of wildlife	Facilitation and technical assistance in developing the plan	Facilitation, NR/wildlife management and use	Regional biologist, MET regional services personnel, NGOs

3) Application and Declaration

The third main step in forming and operating a conservancy is the Application and Declaration stage when the community makes its application to MET for the conservancy to be approved and registered. The key activities for the conservancy are to:

- Complete the application form
- Obtain signatures of the Regional Council and Traditional Authority
- Submit the application form to MET

It is important to have an effective and efficient procedure for dealing with applications from communities to have conservancies approved and registered. It is the role of the MET to receive and review all applications and to approve or reject applications. Table 3 summarises the Application and Declaration stage.

Table 3. The Application and Declaration stage: Steps, support activities, capacity requirements and assistance

Steps support needs/	Support activities	Skills & capacity required by support agencies	Who assists
3. <i>Conservancy Application/Declaration process</i>			
3.1 Fill in the application form	Where possible, assistance to conservancies in ensuring the form is filled in correctly with all the necessary information included or attached	Knowledge of the legal requirements and of the specific requirements of the application form	MET regional services personnel assisted if necessary by NGOs
3.2 Obtain signatures of Regional Governor on application form and letter of endorsement from the TA			
3.3 Submit application form to MET Regional Office			
3.4 MET regional office reviews application, returns with request for more information/changes or forwards to Head Office			MET regional head
3.5 MET CBNRM committee reviews application; recommends approval to the Minister, or returns for more information/changes		Procedure and criteria in place for review and approval of conservancy applications Filing system in place for keeping of records of applications and other data relevant for each conservancy	MET CBNRM committee
3.6 If application approved, CBNRM committee forwards for signature of PS and then for gazetting			MET CBNRM committee/CBNRM coordinator

ANNEX 4 TERMS OF REFERENCE

The responsibilities of the Consultant under this agreement are:

- i) To undertake a field visit to the Zambezi / Chobe region of Caprivi, and to work closely with the Project Coordinator, Dr Ben van de Waal.
- j) To meet with key stakeholders in the fisheries sector in the region, from elected and Traditional authorities, conservancies and their committees, fishing communities and individuals, government representatives, NGOs, private sector (including angling clubs, lodges that offer fishing, regional tourism representatives), fisheries stakeholders in Zambia, etc.
- k) To assess the present and desired situation in the fisheries sector on the Zambezi / Chobe in Namibia and its situations relative to that of particularly Zambia – keeping in mind that one aim of the Project is to facilitate a harmonization of legal, policy and operational frameworks, plus close collaboration, between the countries.
- l) To seek ways of aligning the community fisheries sector (both at policy / strategy level and at practical local implementation and action level) with the CBNRM approach adopted by other sectors such as forestry, wildlife, tourism; and explores how these may be more closely integrated.
- m) To set out the case clearly and succinctly for the advantages of a fully devolved approach to fisheries management in the region – looking at how the incentives would benefit the fisheries itself and the wetlands ecosystem, the fishing communities, the Ministry of Fisheries and the local MFMR staff whose job it is to manage and implement the laws.
- n) To produce **two reports** from this work, as follows:
 - (iii) a report aimed primarily at decision-makers in MFMR on the legislative, policy and strategy levels of how fisheries of the Zambezi / Chobe systems in Namibia could / should be devolved (within the parameters of the Fisheries Act if possible) to lowest appropriate levels; how fisheries could be aligned with CBNRM approaches in other sectors; what some of the present challenges are for the fisheries sector; how devolution and a strong CBNRM approach would be of benefits to all concerned, including the resource; and provide clear step-by-step recommendations; and
 - (iv) a report aimed at local field supervisors and implementers, on an action plan to guide the step-by step implementation of a local fisheries CBNRM initiative, specifically to guide the community facilitator, the implementing support organisations (NNF, MFMR & IRDNC) and the respective local supervisors; that addresses, inter alia, site and community selection, institutional issues, management issues, communications, capacity needs, resource management issues, economic and financial issues, but which is streamlines, highly focused and outcomes oriented.
- o) To take guidance from Dr van de Waal on any additional aspects, issues or requirements not covered or adequately covered in these Terms of Agreement, that might be necessary (at field, meeting and report writing levels) to successfully complete this work.
- p) To advise the NNF of any situation that arises that might jeopardise the successful completion of this project.