MINISTRY OF TOURISM AND HOSPITALITY INDUSTRY

DRAFT
DISCUSSION PAPER ON ALIGNING
THE TOURISM ACT [CHAPTER 14:20] AND RELATED LEGISLATION
TO THE CONSTITUTION OF ZIMBABWE

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A LIST OF ACRONYMS

GCET  Global Code of Ethics on Tourism
GoZ   Government of Zimbabwe
ICTs  Information Communication Technologies
MoTHI Ministry of Tourism and Hospitality Industry
RETOSA Regional Tourism Organization of Southern Africa
UNMDGs United Nations Millennium Development Goals
UNWTO United Nations World Tourism Organization
WTO   United Nations World Tourism Organization
ZTA   Zimbabwe Tourism Authority
ZTB   Zimbabwe Tourist Board
ZTDC  Zimbabwe Tourist Development Corporation
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B: ABSTRACT

Tourism plays a vital role in the global economy. In Zimbabwe the tourism and hospitality industry has generated a lot of foreign currency revenue for the country over the years. Given the fact that Zimbabwe has been recognized as one of the premium tourist destinations in Africa the tourism and hospitality sector can still contribute even more to the Zimbabwean economy given the right tourism legislation and regulation reforms. Over the years tourism sector in Zimbabwe has faced a number of challenges. In line with the Constitution Zimbabwe can respond to the gaps and challenges faced by tourism by implementing the best practices as recommended by the United Nations World Tourism Organization (“UNWTO”). For instance one of the best approaches in the legislative reforms aimed at addressing the alignment of the tourism legislation in the country with the Constitution can be achieved by adopting and implementing the principles of the UNWTO’s Global Code of Ethics on Tourism (“GCET”) in the country.

The roadmap can be taken on the pillar of the institutional and regulatory reforms by way of aligning the tourism legislation with the Constitution. This Discussion Paper (“Paper”) considers the health of tourism in Zimbabwe in general and puts forward recommendations based upon the various guidelines made by the UNWTO, Tourism Vision 2020 and the GCET among others. The Paper is also informed by the global trends in the changing roles of the tourism ministries and tourist boards in various countries. To come up with the best legislative approach to be taken in Zimbabwe a comparative study subjecting the Tourism Laws of twenty (20) countries was made.

Whilst benchmarking with these countries and having regard to the best practices established elsewhere, the Paper recommends the enactment of new legislation which does not seek to reproduce the provisions of the Constitution as part of the Tourism Law of Zimbabwe. On the contrary, the Paper advocates for the enactment of enabling legislation which will provide a different model of tourism development. The model should transform the tourism law locally with the vision as guided by the UNWTO’s recommendations and the best practice as established by other countries being fused into the law in Zimbabwe. The introduction of the GCET into the tourism law in the country must be implemented subject to Zimbabwe’s peculiar history, traditions, norms and values as now embedded under the Constitution.
C. EXECUTIVE SUMMARY

1. The Ministry of Tourism Issues Paper – Alignment of the Tourism Act with the Constitution sets out the framework of the consultancy. In formulating the tourism legislation, regulations as well as the interventions in addressing any gaps in the Tourism Act, Chapter 14:20 (“Tourism Act”) the legislative measures must take into account the fact that:

   1.1. The tourism legislation, regulations as well as the interventions should be positive in facilitating for tourism development as opposed from creating bottlenecks by impeding its growth.

   1.2. The legislative approach which creates the roadmap for tourism development should place emphasis on the need for public-private sector partnerships in developing and managing tourism resources.

2. The current legislation in terms of the Tourism Act did not have the benefit from the enlightenment from the various recommendations by UNWTO,\(^1\) the content of GCET,\(^2\)

\(^1\) The United Nations World Tourism Organization (UNWTO) is the United Nations agency responsible for the promotion of responsible, sustainable and universally accessible tourism. It is the leading international organization in the field of tourism, which promotes tourism as a driver of economic growth, inclusive development and environmental sustainability and offers leadership and support to the sector in advancing knowledge and tourism policies worldwide.

\(^2\) The date of commencement for the Tourism Act was 1 January, 1996 yet the GCET was adopted in 1999 by the General Assembly of the WTO, its acknowledgement by the United Nations two years later expressly encouraged UNWTO to promote the effective follow-up of its provisions. Although not legally binding, the Code features a voluntary implementation mechanism through its recognition of the role of the World Committee on Tourism Ethics (WCTE), to which stakeholders may refer matters concerning the application and interpretation of the document. See [http://ethics.unwto.org/en/content/global-code-ethics-tourism](http://ethics.unwto.org/en/content/global-code-ethics-tourism)
United Nations Millennium Development Goals\(^3\) (“UNMDGs”),\(^4\) United Nations Tourism Vision 2020\(^5\), Tourism Towards 2030\(^6\) or Zimbabwe Vision 2020.\(^7\)

3. The current legislation focused on issues like licensing and the general administration of tourism without incorporating the principles of sustainable tourism development. Additionally e-government, e-commerce and information technology communication were in the infancy at the time of the enactment of the legislation to be aligned with the Constitution.

4. The Tourism Act therefore does not reflect the current best practices as outlined in the WTO’s Report on the role of National Tourism Administrations (NTA) and National Tourism Organizations (NTO) with the result that it fails to stimulate tourism was an economic driver in Zimbabwe.\(^8\)

5. There are obvious fundamental gaps that exist between the provisions of the Tourism Act and where the tourism legislation should be if one is benchmarking with the best practices and trends in the world.

6. MoTHI has a constitutional duty to domesticate and implement the instruments and policies of the UNWTO to the extent that the recommendations are consistent with the New Constitution.

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\(^3\) On 8 September 2000, following a three day Millennium Summit of world leaders at the headquarters of the United Nations, the General Assembly adopted the Millennium Declaration. A follow-up outcome of the resolution was passed by the General Assembly on 14 December 2000 to guide its implementation. See [http://www.un.org/millennium/declaration/ares552e.htm](http://www.un.org/millennium/declaration/ares552e.htm)

\(^4\) The UNWTO encourages the implementation of the Global Code of Ethics for Tourism to maximize the contribution of tourism to socio-economic development, while minimizing its possible negative impacts, and is committed to promoting tourism as an instrument in achieving the United Nations Millennium Development Goals (MDGs), geared towards reducing poverty and fostering sustainable development.

\(^5\) [https://pub.unwto.org/WebRoot/Store/Shops/Infoshop/Products/1179/1179-1.pdf](https://pub.unwto.org/WebRoot/Store/Shops/Infoshop/Products/1179/1179-1.pdf)


\(^7\) [http://fortuneofafrica.com/zimbabwe/2014/02/03/zimbabwe-vision-2020/](http://fortuneofafrica.com/zimbabwe/2014/02/03/zimbabwe-vision-2020/)

7. An opportunity has accordingly presented itself for Zimbabwe to establish a legacy of the best practice in the form of the institutional and regulatory framework for tourism as recommended by the United Nations.⁹

8. Through the tourism legislation and regulations Zimbabwe as a Member State can demonstrate its commitment to the WTO and other stakeholders through the implementation of a law informed by the international instruments and conventions on eco-tourism such as the GCET principles.¹⁰

9. After successfully organizing the 20th Session of the World Tourism Organization General Assembly in 2013, despite huge logistical and economic challenges facing the country in 2014, Zimbabwe won two major awards as the World Best Tourist Destination for 2014 and as the Favourite Cultural Destination for 2014. Zimbabwe can therefore build-on on this success by showing that it will strive to remain the destination of choice in Africa by remaining competitive through the implementation and domestication of the GCET principles.¹¹

10. In a nutshell the recommendations made in the Paper for the legislative reform to be taken in Zimbabwe must be built having regard to the following:

10.1. The history, traditions and customs of the peoples of Zimbabwe.

10.2. The emerging international and regional legal norms and trends in tourism.

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¹⁰ The UNWTO encourages the implementation of the GCET to maximize the contribution of tourism to socio-economic development, while minimizing its possible negative impacts, and is committed to promoting tourism as an instrument in achieving the United Nations Millennium Development Goals (MDGs), geared towards reducing poverty and fostering sustainable development.

¹¹ Refer to http://www.atta.travel/news/4047/european-council-on-tourism-trade-visits-zimb
10.3. Be consistent and compatible with the new constitutional dispensation of Zimbabwe.

11. There is no benefit in seeking to reinvent the wheel whilst at the same time Zimbabwe must and should not import legislation that fails to respect the distinctive characteristics of its society, its political, social and/or its economic objectives.

D: OBJECTIVES OF THE CONSULTANCY

12. To justify the legal and regulatory reform strategy to be adopted by the Ministry through reviewing and commenting on the Tourism Act and the provisions of the Constitution using knowledge based on the international best practices. The objectives established for the consultancy were:

12.1. To identify the gaps between the Tourism Act and the new constitutional dispensation.

12.2. Provide examples of best practices and current global trends.

12.3. Make a case for the legislative reform and intervention appropriate to be taken in tourism legislation in Zimbabwe.

E: METHODOLOGY

13. To achieve the objectives of the consultancy the methodology adopted was through background reading related to understanding the tourism sector in Zimbabwe, regionally and the global trends as well as the forecasts on tourism.
14. The Consultant went through the materials but not limited to the literature as listed and referenced in the Discussion Paper in order to fully understand the work specified under this consultancy.

15. The Consultant further conducted a comparative study of the tourism legislation from a sample of twenty countries located in different geographic regions to verify the current global trends taken in the tourism legislation and development.

16. The Consultant has used his education, experience, and additional understanding gleaned from a selective of the studies and Recommendations made by the UNWTO and other bodies and analyzed the tasks specified herein to come up with this Discussion Paper.

F: TERMS OF REFERENCE

17. The Terms of Reference given as the Scope and Activities of the Consultancy state that:

   The Consultant shall be required to perform the following activities (but shall not be limited to):

   1. Undertake an analysis of the Ministry of Tourism Issues Paper; and make proposals for the best legislative approach to taken based on the concerns raised by the Ministry of Tourism.

   2. Advise whether or not any gaps exist in the Tourism Act [Ch 14:20] that require legislative alignment to constitutional principles and international best practices.

   3. In the event that any gaps exist in the Tourism Act [Ch 14:20] (as outlined above), make recommendations on whether changes should be made to the
existing legislation; OR whether a new piece of legislation ought to be drafted.

4. Make specific recommendations for the proposed changes, if any to the existing legislation or for a new piece of legislation to address the concerns raised by the Ministry of Tourism, as well as to ensure compliance to the relevant constitutional principles and best practices.

5. Prepare a Memorandum of Principles (drafting instructions) to facilitate the legislative drafting exercise.


G: TRANSFORMING THE ZIMBABWEAN TOURISM SECTOR AS AN ECONOMIC DRIVER THROUGH LEGISLATION

18. The objective through the tourism legislation and regulations is to develop a sustainable tourism economy in Zimbabwe via the partnership of the government, the National Tourism Board, the private sector and the civil society. The goal is going to be the creation of employment, the expansion of entrepreneurial opportunities, enhancement of social benefits, the growth of tourism industry profits and the increase of the State revenue.

19. The global trend at the moment is that most countries use the definition adopted by the UNWTO, which defines tourism as “comprising the activities of persons travelling to and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes not related to the exercise of an activity remunerated from within the place visited”.

20. According to Dr.Riddle and Williams tourism is the world’s largest industry – responsible for more than one in ten jobs globally and contributing over eight percent of domestic
economic activity. This means that developing countries are targeting tourism to generate more income for their national economy. In order to be successful, each country needs to formulate a tourism strategy that identifies and justifies its strategic objectives, priorities and targets.\(^\text{12}\)

21. For many developing countries tourism is one of the fundamental pillars of their development process because it is one of the dominant activities in the economy, while for others, it is the only source of foreign currency and employment, and therefore constitutes the platform for their economic development.\(^\text{13}\) In coming up with the new legislation Zimbabwe should learn from the best practices as established in other countries. The list given below shows some of the countries which have set some of the standards to be followed.

<table>
<thead>
<tr>
<th>Country</th>
<th>Type of Best Practice</th>
<th>Example of Best Practice(^\text{14})</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Bahamas</td>
<td>service design</td>
<td>One-stop online booking and immigration</td>
</tr>
<tr>
<td>Botswana</td>
<td>planning process</td>
<td>National Eco-Tourism Strategy</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>planning process</td>
<td>National Tourist Council</td>
</tr>
<tr>
<td>The Gambia</td>
<td>service delivery</td>
<td>Redistribution of resources</td>
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<tr>
<td>Trinidad &amp; Tobago</td>
<td>linkages with</td>
<td>Trinidad &amp; Tobago Tourism Industry</td>
</tr>
<tr>
<td>Vanuatu</td>
<td>linkages with</td>
<td>Certification programme</td>
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<td></td>
<td></td>
<td>Island bungalows private-public</td>
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22. It is noteworthy that UNWTO has emphasized the distinct requirements of legal regulation of the travel and tourism industries. In the circumstances there is a good case for the national legal regime in tourism in Zimbabwe to be constructed based on the platforms set in the international trends, values and norms.

\(^{12}\) Refer to the Case Study on Best Practices in Tourism by Helen Williams and Dr. Dorothy I. Riddle featured on www.intracen.org/WorkArea/DownloadAsset.aspx?id=52372

\(^{13}\) https://www.wto.org/english/tratop_e/serv_e/diaz.doc David Diaz Benavides Chief, Trade in Services Section, Division on International Trade in Goods and Services, and Commodities, UNCTAD; e-mail: david.diaz@unctad.org.

\(^{14}\) Adopted from Williams and Dr.Riddle ibid.
23. Adopting the best practices which have been tested elsewhere will put the tourism law in Zimbabwe in harmony with the international standards set in respect of the free movement of persons, goods, services and capital. The end result will be the creation of the incentives in the development of eco-tourism in the country.

24. Currently Zimbabwe has a tourism law that sets out the functions and powers of the local NTO and its responsibilities as the licensing body in tourism. The legislation should however go further in that the relationship between tourism development, cultural and heritage protection and promotion should be made clear through a National Tourism Policy (“NTP”) which should be publicized in advance to the public and the world in general. The NTP should set out precise roles, responsibilities and the definitions of the entities and activities involved in tourism and these should reflect international norms and conventions.\(^\text{15}\)

25. Under the current regime Zimbabwe falls short of the standards set by the countries which have received praise from the UNWTO. For instance in terms of the UNWTO’s Implementation Reports of the GCET special mention was made to the effect that Tanzania had adopted parliamentary/ministerial resolutions in line with the Code’s principles.\(^\text{16}\) At the moment Zimbabwe has not yet domesticated the GCET principles as part of her national tourism legislation.

26. One of the important benefits of the new tourism legislation will be the introduction of a new model of institutional framework for the administration of tourism in the country. By implementing the provisions of the Constitution new principles of corporate governance will be fused into the tourism sector making the tourism industry consistent with the international standards in terms of accountability. It will also instill confidence into the potential tourists in the source and new markets about what to expect upon visiting Zimbabwe.

\(^{15}\) Refer to the publication produced by the USAID/Jordan Tourism Development Project II, under the direction of Ibrahim Osta, Chief of Party on http://www.siyaha.org/sites/default/files/Documents/FINAL%20REPORT.pdf
27. The GoZ has committed itself to meeting the UNMDGs. In order to achieve the UNMDGs, the tourism legislation must be put in place to promote an appropriate, harmonious and constructive relationship regulating all the stakeholders in the tourism industry.

28. When the new legislation in place the Responsible Minister should then be able to provide clear direction by facilitating the growth of tourism in line with the United Nations Tourism Vision 2020 as well as UNWTO Tourism Vision 2030. The findings by Abel, Nyamadzawo, Nyaruwata and Moyo concluded that the success of the Zimbabwe’s tourism industry is based on its natural resources, people, history, culture, amenities and superstructure. ¹⁷

29. The survey by Abel et al however pointed out that the tourism sector in Zimbabwe was facing a number of growth-constraining challenges that included:

29.1. The lack of inter-governmental policy coordination as different government institutions promulgated policies and regulations without considerations of their impacts on other sectors hence impacting negatively on the tourism sector.

29.2. The issue of poor policy implementation and costly policy reversals.

29.3. The lack of internal airline connectivity.

29.4. The road network that need urgent repair and rehabilitation.

29.5. The inadequate skills and experience mix in tourism facilities.

29.6. The weak domestic tourism promotion and limited Information Communication Technology usage.

29.7. The frequency of the presence of the traffic police road check points on the routes used by the tourists.

29.8. The harassment of tourists by the traffic police.

29.9. The delays at the Beitbridge Border Post between South Africa and Zimbabwe.

29.10. The absence of coaches servicing and linking the tourist attractions in the country.

29.11. The enforcement of the traffic laws in contravention of the international law as provided by the Vienna Convention on Road Traffic.\(^{(18)}\) Zimbabwe has been a contracting party to the Vienna Convention since 31 July 1981.\(^{(19)}\)

29.12. The visa application system which is prohibitive.

29.13. The absence of e-governance in terms of the administration.

29.14. Marketing Victoria Falls solely at the expense of the other tourist attractions in the country.

29.15. Lack of efficient and reliable ICT infrastructure and unreliable power supply in both urban and tourist resorts.

30. The impediments to the development of tourism as identified by Abel in the project should be addressed through the interventions that can be made through the legal reform to the Tourism Act.

31. In making the recommendations in respect of the legislative approach to be taken by Zimbabwe we should be conscious of the fact that the current unitary model will not be suitable considering the role to be played by the provincial and metropolitan bodies as envisaged by the provisions of the Constitution.

32. MoTHI cannot play it alone and in the circumstances consultation with the other Ministries, public bodies and, most importantly, with the private sector should take place in order to come up with the new legislation and regulations to be put in place in Zimbabwe.

H: A CRITICAL PERSPECTIVE OF THE NEW NORMS AND VALUES AS INTRODUCED BY THE NEW CONSTITUTION ON THE TOURISM SECTOR

33. The operation of the Constitution brought with it the principles of constitutional supremacy\(^20\), the universality of the human rights, equality before the law as well as the Rule of Law. Constitution of Zimbabwe (Amendment Act 20) of 2013 (“Constitution”) is the supreme law of the country and all laws, practices, norms and values are subject to it.\(^21\) For the purposes of the tourism legislation it is instructive that the obligations imposed by the Constitution are binding on every person, natural or juristic, including the State and all executive, legislative and judicial institutions and agencies of government at every level, and must be fulfilled by them.\(^22\)

34. The new legislation to govern the tourism industry in the country should be built based on the ground that:

\(^{20}\) s2 (1) of the Constitution of Zimbabwe (“Constitution”).
\(^{21}\) s2 (1) of the Constitution.
\(^{22}\) s2 (2) of the Constitution.
3.1. Zimbabwe is founded on respect for the following values and principles—

(a) supremacy of the Constitution;
(b) the rule of law;
(c) fundamental human rights and freedoms;
(d) the nation's diverse cultural, religious and traditional values;
(e) recognition of the inherent dignity and worth of each human being;
(f) recognition of the equality of all human beings;
(g) gender equality;
(h) good governance; and
(i) recognition of and respect for the liberation struggle.

35. The principles of good governance, which bind the State and all institutions and agencies of government at every level, include—

f. respect for the people of Zimbabwe, from whom the authority to govern is derived;
g. transparency, justice, accountability and responsiveness;
h. the fostering of national unity, peace and stability, with due regard to diversity of languages, customary practices and traditions;
i. recognition of the rights of—
   i. ethnic, racial, cultural, linguistic and religious groups;
   ii. persons with disabilities;
   iii. women, the elderly, youths and children;
   iv. veterans of the liberation struggle;
j. the equitable sharing of national resources, including land;
k. due respect for vested rights; and
l. the devolution and decentralisation of governmental power and functions.

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23 s3(1)(a) inclusive to 3(1)(i) of the Constitution
24 Abel et al suggested that the country's tourism strategy should develop tourist products at historical sites e.g., the first liberation battle site in Chinhoyi
25
36. All the principles as stated above shall have a bearing as far as drafting the tourism legislation is concerned in Zimbabwe as these values did not exist at the time the Tourist Act was enacted. In addition to the foregoing it must be borne in mind that the State is enjoined by the Constitution to take measures to preserve, protect and promote indigenous knowledge systems, including knowledge of the medicinal and other properties of animal and plant life possessed by local communities and people.²⁶ It also noteworthy that the country has a constitutional duty to domesticate the international instruments and conventions Zimbabwe is signatory to.

37. The obligation for the domestication of the international instruments and conventions is created by the Constitution in that it provides that the State must ensure that all international conventions, treaties and agreements to which Zimbabwe is a party are incorporated into domestic law.²⁷ There will be great obvious value in the voluntary implementation of the principles of the GCET to Zimbabwe. The activities of the World Committee on Tourism Ethics was one of the agenda of the General Assembly at the Twentieth Session which was held at Victoria Falls, Zambia/Zimbabwe, 24-29 August 2013.²⁸ The relevance is that since Zimbabwe has not made any reservations or declarations against the conventions or instruments by UNWTO. It follows that the country as a State Party to UNWTO it has a moral duty to domesticate into the national law the recommendations of UNWTO and this includes the implementation of GCET.

38. The alignment of the law has been made necessary on account of the fact that the provisions of the Constitution provide that the provincial and metropolitan councils have the responsibility of the management of the social and economic development of the provinces, including—

   (a) planning and implementing social and economic development activities in its province;

²⁶ s33 of the Constitution.
²⁷ s34 of the Constitution.
²⁸ The Assembly was held at the UNESCO heritage site Victoria Falls, with Zambia and Zimbabwe co-hosting the event from 24 to 29 August 2013.
(b) co-ordinating and implementing governmental programmes in its province;
(c) planning and implementing measures for the conservation, improvement and management of natural resources in its province;
(d) promoting tourism in its province, and developing facilities for that purpose;
(e) monitoring and evaluating the use of resources in its province; and
(f) exercising any other functions, including legislative functions that may be conferred or imposed on it by or under an Act of Parliament.

2. An Act of Parliament must provide for the establishment, structure and staff of provincial and metropolitan councils, and the manner in which they exercise their functions.

3. Members of a provincial or metropolitan council are accountable, collectively and individually, to residents of their province and the national government for the exercise of their functions.

39. The local governance introduced by the Constitution was not in existence at the commencement date of the Tourist Act. The expertise which now exists in terms of the management of the eco-system is also poles apart from the knowledge which prevailed at the commencement date of the Tourist Act. The Tourist Act was focused on the function and the administration of ZTA but new ways of governance have been introduced in terms of the Constitution.

40. In the premises good grounds exist which call for the legislative reform of the Tourism Act. The question which arises is to identify the best legislative approach to be taken by Zimbabwe. To enable Zimbabwe to benchmark a comparative study of the legislative measures taken by other countries must be conducted.
I: A COMPARATIVE STUDY OF THE TOURISM LEGISLATION IN TWENTY (20) COUNTRIES

41. In order to identify the current global trends and the best practices established in tourism legislation and regulation various countries were chosen in the comparative study. The global trends provide useful guidance lines for the purposes of drafting the new tourism legislation in Zimbabwe. The countries chosen belong to the Commonwealth bloc of nations which have similar historical and legal influences as Zimbabwe notwithstanding the fact that Zimbabwe is currently not a member of the Commonwealth.

CASE STUDY 1: BOTSWANA

42. The Preamble to the Tourist Act in the Republic of Botswana states that it is an Act to make provision for regulating the tourist industry with a view of promoting its development and well-being. The Act established the NTA and it does not make any reference to the GCET. The Interpretation Clause in the Act is limited to the words “grade”, “regrade” and “tourist enterprise.” The Act is limited in scope and like the local Act in Zimbabwe basically focuses on the appointment of officers to the Botswana Tourism Board, licensing of tourist enterprises and the appeals to the Minister.

CASE STUDY 2: BARBADOS

43. The Barbados Tourism Authority Act established the Barbados Tourism Authority. The Act made provision for *inter alia* the establishment of the NTA, the functions of the board, the financial management of the board, disclosure of the interest by the Board Directors, the licensing of the tourist accommodation as well as the fees applicable thereto.

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29 Tourism Act, Chapter 42:09 whose date of commencement was 1st January 1993.
30 See the Barbados Tourism Authority Act, Chapter 342 whose commencement date was 1st November 1995.
CASE STUDY 3:  JAMAICA

44. In Jamaica the Tourism Board Act came into force on 1st April 1955 and what is of interest in that even then the law made provision under section 12 that:

   12. Subject to the provisions of this Act, the Board General shall have power, for the purpose of the execution of their of duty and the discharge of their functions under section 11-

      (a) to carry on all activities the carrying on whereof appear to them to be requisite, advantageous or convenient for or in connection with the discharge of their said duty;

45. The lesson to be distilled from the provision is that the powers to be given to the responsible Minister are supposed to be wide in order to cover for any future eventualities.

CASE STUDY 4:  NIGERIA

46. The Nigerian Tourism Development Corporation is the NTA in Nigeria. In addition to the powers to register, classify and grade all hospitality and tourism enterprises, travel agencies and tour operators in such manner as may be prescribed the functions of the Corporation are stated as:

   (a) to encourage people living in Nigeria to take their holidays therein and people from abroad to visit Nigeria;  

   (b) To encourage the provision and improvement of tourism amenities and facilities in Nigeria including the development of hotels and ancillary facilities.

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32 The promotion of domestic tourism for the Zimbabwean should be one of the goals of the tourism legislation in the country.
(c) In addition to the specific powers conferred on the Corporation by or under the subsequent provisions of this Act, the Corporation shall have power-

(a) to provide advisory and information services;
(b) to promote and undertake research in the field of tourism;
(c) to render technical advice to the states and local governments in the field of tourism.

47. Along the same lines as the Jamaican Act the powers of the Board in Nigeria are wide. The Act provides that the Corporation shall have the power to carry on any undertaking which appears to the Corporation to be necessary for the promotion and development of the tourist industry; to assist in the development of museums and historic sites, parks, beaches, game reserves, natural beauty spots, holiday resorts and souvenir industries. In the Act the Corporation in Nigeria is empowered to advise appropriate authorities on ways of improving tourist facilities, publicize tourism and do all such things incidental to the functions stated in the Act which in its opinion are calculated to facilitate the carrying on of the duties of the Corporation under the Act.

48. Nigeria is a Federation and the Act established for each State in the Federation, a State Tourism Board. The State Tourism Board is constituted by a representative each from the States Ministries of Commerce, Industry and Tourism, Agriculture and Natural Resources, Land and Survey, a representative of the relevant trade groups in tourism industry appointed by the State Commissioner for Commerce, Industry and Tourism, a representative of the State Chambers of Commerce, Industry Mines and Agriculture and the general manager.

49. The functions of the Tourism Board include assisting the Corporation on the implementation of the Act and recommending to the Corporation such other measures as may be necessary in the opinion of the Tourism Board to enable full effect to be given to the provisions of the Act. In consultation with the Corporation the Tourism Board must devise and carry out schemes aimed at encouraging Nigerians to visit the individual State, to identify, preserve, protect and develop tourism assets and resources, to co-ordinate the
activities of tourism agencies and to perform such other functions as may be assigned to it by the Corporation.

50. At the local level the Act established for each local government of a State, the Local Government Tourism Committee. The Local Government Committee consists of the chairman of the Local Government Council as chairman, the Councilor charged with the responsibility for matters relating to tourism, a representative of the State Ministry charged with responsibility for matters relating to tourism, a traditional ruler, three persons who by reason of their ability, experience or specialized knowledge are capable of making useful contribution to the development of tourism and the divisional police officer in the local government area. Considering the new governance of the provincial councils as stipulated in the Constitution the model in Nigeria might be considered for the purposes of benchmarking with the conditions which exist in Zimbabwe.

CASE STUDY 5: GREAT BRITAIN

51. As what can be gathered from the preamble in Great Britain the Development of Tourism Act was enacted to provide for the establishment of a British Tourist Authority and Tourist Boards for England, Scotland and Wales with responsibility for promoting the development of tourism to and within Great Britain; to provide for the giving of financial assistance out of public funds for the provision of new hotels and the extension, alteration and improvement of existing hotels; to enable provision to be made for the registration of hotels and other establishments at which sleeping accommodation is provided by way of trade or business and for securing that the prices charged there for such accommodation are brought to the notice of persons seeking to avail themselves of it; and for connected purposes. The lesson which can be drawn from the enactment is that the law can make provision for financial assistance to be given by government to tourist enterprises.

33 Development of Tourism Act 1969 Chapter 51 which came into operation 25 July 1969.
CASE STUDY 6: CANADA

52. The Canadian Tourism Commission Act regulates the tourism industry in Canada and the statute includes a Preamble which reads:\(^{34}\)

WHEREAS the Canadian tourism industry is vital to the social and cultural identity and integrity of Canada;

WHEREAS the Canadian tourism industry makes an essential contribution to the economic well-being of Canadians and to the economic objectives of the Government of Canada;

WHEREAS the Canadian tourism industry consists of mainly small and medium-sized businesses that are essential to Canada’s goals for entrepreneurial development and job creation;

AND WHEREAS it is desirable to strengthen Canada’s commitment to Canadian tourism by establishing a Tourism Commission that would work with the governments of the provinces and the territories and the Canadian tourism industry to promote the interests of that industry and to market Canada as a desirable tourist destination;

53. In Zimbabwe the Tourism Act is not prefaced with a detailed Preamble and it is recommended that the new legislation should come up with a Preamble which is appropriate to suit Zimbabwe’s circumstances. Separately provision must be made outlining the importance of the partnership between the government and the private sector in the new legislation in Zimbabwe. For instance the Canadian Act sets the objects of the Commission as:

(a) sustain a vibrant and profitable Canadian tourism industry;

(b) market Canada as a desirable tourist destination;

\(^{34}\) The Canadian Tourism Commission Act was assented to on 20\(^{th}\) October 2000.
(c) support a cooperative relationship between the private sector and the governments of Canada, the provinces and the territories with respect to Canadian tourism; and

(d) provide information about Canadian tourism to the private sector and to the governments of Canada, the provinces and the territories.

CASE STUDY 7:  AUSTRALIA

54. The Australian model stresses the importance of both the domestic and international tourism in that Tourism Australia’s objects are:\textsuperscript{35}

(a) to influence people to travel to Australia, including for events; and

(b) to influence people travelling to Australia to also travel throughout Australia; and

(c) to influence Australians to travel throughout Australia, including for events; and

(d) to help foster a sustainable tourism industry in Australia; and

(e) to help increase the economic benefits to Australia from tourism.

55. The new legislation in Zimbabwe must stress the significance of both the domestic and international tourism. The powers given to the NTA is wide in that subject to subsection (3), Tourism Australia has power to do all things necessary or convenient to be done for or in connection with the performance of its functions. Another special feature of the model is that the application of the provisions of the Act were staggered to come into operation on different dates.

CASE STUDY 8:  NEW ZEALAND

\textsuperscript{35} Tourism Australia Act 2004
56. The tourism legislation should be enacted with an eye into the future rather than for it to suit a special or specific event. The enactment should be timeless and this can be seen from section 6 of the Act in New Zealand which directs that:  

The New Zealand Tourism Board’s object is to ensure that New Zealand is so marketed as a visitor destination as to maximise long-term benefits to New Zealand.

57. The scope of the activities of the New Zealand Tourist Board is also wide in that the NTA is expected to:

(a) to develop, implement, and promote strategies for tourism; and

(b) to advise the Government and the New Zealand tourism industry on matters relating to the development, implementation, and promotion of those strategies.

CASE STUDY 9: TANZANIA

58. In Tanzania the institutional framework, administration, regulation, registration and licensing of tourism facilities and activities and for related matters is governed under the Tourism Act 2008. Pursuant to section 3 the Tourism Act 2008 provides that:

3. All persons exercising powers or discharging any duties under this Act shall strive to promote -

(a) The National Tourism Policy;

(b) The relevant provisions of the Global Code of Ethics for Tourism; and

(c) eco-tourism, cultural tourism and any other forms of tourism that provides better sectoral linkages, create employment and foster sustainable development.

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37 Tourism Act 2008
59. The Act in Tanzania domesticated the GCET into the national law of the country. Another significant feature is that the country established the National College for Tourism which is an important tool in the promotion of tourism in the country. It is recommended that the local legislation to be introduced as part of the alignment should domesticate the GECT into the Zimbabwean national law.

CASE STUDY 10: SWAZILAND

60. The Swaziland Tourism Authority was constituted under the Swaziland Tourism Authority Act, 2001. The objectives of the Authority are given under section 4 of the Act as:

(a) develop the tourism sector as a national priority in an environmentally sustainable and culturally acceptable manner;
(b) co-ordinate and facilitate the implementation of Government policies and strategies on tourism;
(c) market Swaziland as a tourism destination through the provision of a platform for industry stakeholders;
(d) encourage, facilitate and promote local and foreign investment in the tourism industry; and
(e) ensure the contribution of tourism to the socio-economic development and continued improvement of quality of life in the Kingdom of Swaziland.

61. The functions of the Authority are listed under section 5 of the Act as:

5. (1) The functions of the Authority are to -

(a) translate the general and specific objectives of the National Tourism Policy into strategies and action plans, for effective and efficient implementation of the Policy;
(b) advise government and stakeholders on tourism trends, activities and all matters relating to tourism development, thereby
optimizing investment in the industry and facilitating the continuing evaluation of tourism policy and objectives;
(c) establish Swaziland’s image as a distinctive, friendly, peaceful, safe and very desirable country to visit, through specific marketing and public relations campaigns, including promotional activities and being a mouthpiece for the tourism industry both domestically and internationally.
(d) develop and market the tourism industry through sound planning and consultation with stakeholders and to undertake promotional campaigns, either singularly or jointly with industry stakeholders, in local, region and international markets, in a manner most appropriate for applying the resources available for such activities;
(e) raise development, promotional and administrative funding through, inter alia, the implementation of tourism levies and other charges, and to otherwise attract, facilitate and utilize whatever sources of finances that may be available to further the development in Swaziland;
(f) research and advise Government on suitable funding strategies relating to the development and marketing of tourism;
(g) co-ordinate information gathering for the tourism industry, through research and the development of tourism databases, to be made available to the industry for planning and decision-making purposes;
(h) facilitate the development of business management and marketing skills amongst emerging entrepreneurs through training and development initiatives;
(i) promote and facilitate the development of tourism infrastructure, facilities and services in Swaziland, which are either specifically identified as of key importance to the development of the National Tourism Product, or which comply with the guidelines and objectives of the National Tourism Policy;
(j) define strategic zones for tourism development in order to focus developmental efforts for maximum long-term socio-economic benefit and to adequately motivate and ensure that potential tourism opportunities are not compromised by alien development;

(k) liaise with Government Ministries and departments, local authorities, or other statutory bodies in order to achieve the objectives of the National Tourism Policy;

(l) provide advice and facilitate interaction with any bodies officially mandated with promoting local and foreign investment in Swaziland;

(m) identify and encourage expansion and new investment by the existing tourism industry in Swaziland;

(n) advise and assist Government in all matters pertaining to regional and international co-operation in the sphere of tourism development; and

(o) do all such things as are necessary or incidental or conducive to the functions specified in this Act.

(2) In the performance of its functions, the Authority shall have regard to the environmental impact of the activities which constitute the tourism industry.

62. There are good lessons to be learnt from the model in Swaziland which is detailed and elaborate than a lot of the statutes in other countries. It will be preferable if the Act in Zimbabwe is comprehensive than elementary.

CASE STUDY 11: ZAMBIA

63. In Zambia the tourism legislation and regulations were split between the Tourism and Hospitality Act\(^3\) and the Zambia Tourism Board Act. The Zambia Tourism Board has a

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\(^3\) Tourism and Hospitality Act 2007 Act No 23 of 2007 which was assented to on 29 November 2007 and came into operation on 30 November 2007.
mandate to promote and market Zambia as a tourist destination within and outside Zambia.\textsuperscript{39}

64. The Zambian legislation is an example of the implementation of the UNWTO GCET. Under section 13 of the Tourism and Hospitality Act it is provided that the Minister shall in consultation with stakeholders develop a code of ethics in accordance with the UNWTO’s GCET. The GCET might be voluntary in nature but it sets principles were formulated as a result of surveys, studies and research. The GCET accordingly gives invaluable insight to the field of tourism development, management and tourism legislation formulation.

CASE STUDY 12: PHILIPPINES

65. One of the longest and detailed tourism legislation and regulations belongs to the Philippines which run into about one hundred and twenty-five (125) pages.\textsuperscript{40} The Act starts with the Declaration of Policy which states that:

Declaration of Policy. – The State declares tourism as an indispensable element of the national economy and an industry of national interest and importance, which must be harnessed as an engine of socio-economic growth and cultural affirmation to generate investment, foreign exchange and employment, and to continue to mold an enhanced sense of national pride for all Filipinos.

Towards this end, the State shall seek to:

(a) Ensure the development of Philippine tourism that is for and by the Filipino people, conserve and promote their heritage, national identity and sense of unity;
(b) Recognize sustainable tourism development as integral to the national socio-economic development efforts to improve the quality of life of the Filipino people, providing the appropriate attention and support for the growth of this industry;

\textsuperscript{40} Republic Act No. 9593 otherwise known as Tourism Act of 2009
(c) Promote a tourism industry that is ecologically sustainable, responsible, participative, culturally sensitive, economically viable, and ethically and socially equitable for local communities;

(d) Create a favourable image of the Philippines within the international community, thereby strengthening the country’s attraction as a tourism destination and eventually paving the way for other benefits that may result from a positive global view of the country;

(e) Develop the country as a prime tourist hub in Asia, as well as a centre of world congresses and conventions, by promoting sustainable tourism anchored principal on the country’s history, culture and natural endowments, and ensuring the protection, preservation and promotion of these resources; and

(f) Encourage private sector participation and agri-tourism for countryside development and preservation of rural life.

66. Section 3 of the Act in Philippines gives the objectives of the enactment. It states that Pursuant to the above declaration, the State shall adopt the following objectives:

(a) Develop a national tourism action plan and work for its adoption and implementation by national and local governments;

(b) Encourage activities and programs which promote tourism awareness, preserve the country’s diverse cultures and heritage, and instill a sense of history and a culture of tourism among the youth and the populace;

(c) All things being equal, grant preferential treatment to the employment of Filipino nationals in tourism-related enterprises;

(d) Provide full government assistance by way of competitive investment incentives, long-term development fund and other financing schemes extended to tourism related investments;

(e) Ensure that tourism development protects and promotes the general well-being of the Filipino people, particularly in the area of investment, to include the monitoring and prevention of any act of profiteering or speculation to the detriment of local residents, as well as the exploitation of women and children in tourism;
(f) Encourage competition in the tourism industry and maximize consumer choice by enhancing the continued viability of the retail travel industry and independent tour operation industry;

(g) Enhance the collection, analysis and dissemination of data which accurately measure the economic and social impact of tourism in the country to facilitate planning in the public and private sectors;

(h) Ensure the right of the people to a balanced and healthful ecology through the promotion of activities geared towards environmental protection, conservation and restoration;

(i) Develop responsible tourism as a strategy for environmentally sound and community participatory tourism programs, enlisting the participation of local communities, including indigenous peoples, in conserving bio-physical and cultural diversity, promoting environmental understanding and education, providing assistance in the determination of ecotourism sites and ensuring full enjoyment of the benefits of tourism by the concerned communities;

(j) Strengthen the role of tourism councils and encourage the participation of non-government organizations (NGOs), people’s organizations (POs) and the private sector in initiating programs for tourism development and environmental protection;

(k) Promote the progressive development of existing civil aviation, land and sea Transportation policies as they relate to tourism, in consonance with existing bilateral agreements and inter-agency pronouncements;

(l) Promote and ensure the convention-handling capability of the country as a World-class convention centre;

(m) Achieve a balance in tourism development between urban and rural areas in order to spread the benefits of tourism and contribute to poverty alleviation, better access to infrastructure and to a reduction in regional imbalances;

(n) Enhance capability-building of local government units (LGUs), in partnership with the private sector, in the management of local tourism projects and initiatives, thereby ensuring accessible and affordable destinations throughout the country, especially in areas which have shown strong comparative advantage;
(o) Maintain international standards of excellence in all tourism facilities and services, and promote the country as a safe and wholesome tourist destination;

(p) Enhance international business relations for the support of tourism projects of the private sector, through partnerships, joint ventures and other cooperative undertakings involving local and foreign investors;

(q) Support the establishment of tourism enterprise zones (TEZs), which will provide the necessary vehicle to coordinate actions of the public and private sectors to address development barriers, attract and focus investment on specific geographic areas and upgrade product and service quality; and

(r) Ensure a sustainable funding mechanism for the implementation of tourism Policies, plans, programs, projects and activities.

67. The declaration of policy is salutary and innovative and the inclusion of a section declaring the country’s tourism policy is an issue which can be considered for the legislation in Zimbabwe to be introduced during the alignment process.

CASE STUDY 13: IRELAND

68. One of the oldest tourism legislations is the Tourist Traffic Act of Ireland which came into operation on its passing on 27 July 1939. There have been nineteen (19) Tourist Traffic Acts enacted between 1939 and 2003. The long title to the Tourist Traffic Act 1939 (the Principal Act) states that it is —

“an Act to make further and better provision for the encouragement and development of the tourist traffic, and for that purpose to establish a board having powers of regulation, registration, and control in matters relating to the tourist traffic and, in particular, the accommodation and attractions available for tourists, and to provide for the charging of fees by such board in respect of registers kept by them, and to provide for divers matters ancillary to or connected with the matters aforesaid”.

[32]
69. The long title to the Tourist Traffic Act 1952, which came into operation on its passing on 3 July 1952, states that it is —

“an Act to make further and better provision for the encouragement and development of the tourist traffic and, in particular, to establish a body to engage in publicity in connection with such traffic, to amend and extend the Tourist Traffic Acts 1939 and 1946, to amend the law relating to the licensing of hotels and holiday camps for the sale of intoxicating liquor, and to provide for other matters connected with the matters aforesaid”.

70. The long title to the National Tourism Development Authority Act 2003 came into operation on 28 May 2003 states that it is—

“an Act to provide for the establishment of a body to be known as an tU´ adara´ s Na´ isiu´ nta Forbartha Turaso´ ireachta or in the English language the National Tourism Development Authority; to provide for the dissolution of Bord Fa´ ilte E´ ireann and C.E.R.T. Limited; to provide for the promotion of tourism and the development of tourism facilities and services; to provide for the transfer of certain functions from Bord Fa´ ilte E´ ireann and C.E.R.T. Limited to the National Tourism Development Authority; to provide for the repeal of certain provisions of the Tourist Traffic Acts 1939 to 1998 and to provide for matters connected therewith”.

71. The special features of the Irish legislation is that the Irish Tourist Board has the power to:

71.1. Compulsorily acquire land subject to compensation being paid.

71.2. In the performance of its functions, the Board shall have regard to policies of the Government relating to the Irish language and culture.

71.3. The Authority comprises a chairman and 12 ordinary members, appointed by the Minister, and who have relevant expertise.

71.4. The period of office is 5 years.
71.5. There is also provision for the establishment of advisory committees.

72. The duration for the tenure of office is of importance because it allows for continuity in the implementation of programs in that the shorter the tenure then there is more uncertainty in the business of the NTA.

CASE STUDY 14: KENYA

73. In Kenya the tourism legislation is captured under the provisions of the Tourism Act which provides for the formulation of the national tourism strategy. The Act provides that the responsible Minister shall:

(a) formulate and publish in the Gazette a national tourism strategy at least once every five years, in accordance with which the tourism sector shall be developed, managed, marketed and regulated.

(b) periodically review the national tourism strategy and may, by notice in the Gazette, publish a revised national tourism strategy.

(c) when exercising or performing any statutory function, take into account and give effect to the national tourism strategy.

(d) when formulating a national tourism strategy consult the public.

74. The law in Kenya established the Kenya Utalii College which was given the mandate to undertake tourism and hospitality training, capacity building for the tourism sector, and perform any other function related or incidental to the foregoing as might be directed by the Minister.

75. The Act also established the Kenyatta International Convention Centre with the object and purpose of promoting business of meetings, conferences and exhibitions. There are

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41 The Tourism Act, 2011 Act No 28 of 2011 whose date of assent was 16 September 2011 with commencement date being 1 September 2012.
good lessons which can be learnt from the Kenyan legislation at the drafting stage of the alignment process of the tourism laws with the Constitution.

CASE STUDY 15: MALTA

76. In Malta the Tourism Authority consists of eleven voting members and the chief executive who is an ex officio be a non-voting member of the NTA. In the local Tourist Act the Chief Executive a voting member of ZTA and that gives rise to cases of conflict of interest. To avoid any room for conflict of interest the Chief Executive Officer should be an ex officio member of the ZTA.

CASE STUDY 16: SOUTH AFRICA

77. In the Republic of South Africa the tourism legislation starts with the preamble by acknowledging the fact that tourism had grown considerably since the country’s first democratic election. The Preamble identified transformation as being vital to ensure the sustainable growth and development of the tourism sector in the country.

78. The Act states that the challenges in the tourism sector were best addressed through a concerted effort by all spheres of government and the private sector working together to create an environment that was conducive to the sustainable growth, development and transformation of tourism. What might be of interest to the Zimbabwean context is the fact that the South African Act gives the Minister the power to gazette Codes of good practice for tourism to guide conduct relating to tourism services, facilities and products, to guide conduct of organs of State responsible for developing and managing tourism as well as to promote the achievement of the objects of this Act. The Republic of South Africa shares borders with Zimbabwe and in terms of the international tourists it makes sense to visit South Africa and Zimbabwe on the same package and trip.

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42 See the Malta Travel and Tourism Act Chapter 409.
43 Tourism Act 2014 Act No 3 of 2014.
79. It is widely accepted that the South African Constitution is one of the most liberal and progressive constitutions of the world.\textsuperscript{44} Despite this fact the South African law makers did not find it to be necessary to reproduce the provisions of the South African Constitution as part of the South African tourism legislation. Instead of restating the rights which are entrenched in the Constitution the law giver in South African made reference to the issues of the transformation of the tourism sector in the statute of that country. By the same token there might be no need for the new legislation in Zimbabwe to reproduce the provisions of the Constitution in the new tourism law of the country. As the supreme the Constitution feeds into all the statutes of the country making it unnecessary to replicate the Constitution in the tourism legislation of the country.

CASE STUDY 17: MALDIVES

80. This Act in Maldives provides for the determination of zones and islands for the development of tourism in the Maldives: the leasing of islands for development as tourist resorts, the leasing of land for development as tourist hotels and tourist guesthouses, the leasing of places for development as marinas, the management of all such facilities; and the operation of tourist vessels, diving centers and travel agencies, and the regulation of persons providing such services.\textsuperscript{45} The Maldives statute shows that the content of the law can be tailored to suit the local environment and requirements of a given country.

CASE STUDY 18: LESOTHO

81. In the Kingdom, the Lesotho Tourism Development Corporation Board\textsuperscript{46} consists of the Director of Tourism, who shall be the Chairman; the Chief Executive who shall be an \textit{ex-officio} member; and a member nominated by the Lesotho Council for Tourism, who shall

\textsuperscript{44} \url{www.bbc.co.uk/scotland/education/.../soutafrica/.../constitution/billofrig...}
\textsuperscript{45} See the Maldives Tourism Act No 2/99.
\textsuperscript{46} Tourism Act 2002 Act No 4 of 2002.
be the Deputy Chairman; a representative of the Hotels and Hospitality Association and 4 other members.

CASE STUDY 19: MAURITUS

82. In Mauritius through Proclamation No. 3 of 2008 which took effect from 1 June 2008 the Tourism Authority Act 2006 was amended. The provisions of the Proclamation outlined the provisions of the principal Act which were amended. This model fused the new concepts which arose into the principal statute which was amended. This is an option which might be considered where new sections can be added to the principal Tourism Act.

CASE STUDY 20: SINGAPORE

83. The Singapore Tourism Board Act created the NTA in Singapore. Under the Act the NTA may, in its discretion, appoint from among its members or other persons who are not members such number of committees consisting of members or other persons or members and other persons for purposes which, in the opinion of the Board, would be better regulated and managed by means of such committees. An interesting innovation in the Act is that the law Presumption of guiding services provided for remuneration.

84. The Act provides that an individual who provides any guiding services to 8 or more tourists is presumed, unless the contrary is proved, to have provided the guiding services for remuneration if, at the time, or within a reasonable time before or after, the guiding services are provided, the tourists and the individual are, have been or will be conveyed,

47 Tourism Authority (Amendment) Act 2008.
48 Singapore Tourism Board Act, (Chapter 305B)
as the case may be, in a motor vehicle (other than an omnibus). In the Zimbabwean context and depending on the issues under consideration the benefits of creating any presumption in the law must be weighed.

85. One of the key issues the new legislation will have to address shall relate to Structures, Spheres of Competence and Activities of the NTA to be established in terms of the new legislation. Insight on this crucial aspect can be found from the results and findings of the Survey on National Tourism Administrations (NTAs), which is incorporated in WTO's General Programme of Work, which was intended to:

(a) collect and disseminate updated information on the structure, spheres of competence and activities of tourism administrations and on their present role in each country's institutional framework;
(b) identify new trends and changes that have occurred over recent years in the role and responsibilities of tourism administrations, and their impact on the formulation of tourism policies, at the national and international levels;
(c) identify how individual States have strengthened or adapted their administrative structures with responsibility for tourism, in order to respond most effectively to the future development needs of this branch of socio-economic activity.49

86. In coming up with the suitable model of legislation for Zimbabwe the Conclusions and Recommendations of the WTO First International Forum at Cadiz in 1995 will need to be considered closely. The Recommendations called on Parliaments and Governments to


[38]
furnish NTAs with the tools appropriate to carrying out the responsibilities entrusted to them and to the economic weight of the sector for which they are responsible.\textsuperscript{50}

87. In the formulation of a legal and regulatory framework for the sustainable development and management of tourism, protection and conservation of natural and cultural resources; and, facilitation of the involvement of private sector and local communities in tourism development activities the Recommendations, methodology, activities and tools as suggested by UNWTO are invaluable. Law making is a process as opposed from an event and in order to get it right it takes time.\textsuperscript{51}

88. For the Recommendations on the protection of children reference can be made to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism where the UNWTO made its Statement on the Prevention of Organized Sex Tourism.\textsuperscript{52}

89. For the Recommendations on gender equality the UNWTO has made the Global Report on Women in Tourism 2010, in a document based on studies which were commissioned in 2009 by UNWTO and UNIFEM (now UN Women).\textsuperscript{53}

90. According to the World Health Organization (WHO), 15\% of the world’s population (1 billion people) is estimated to live with some form of disability. UNWTO is convinced that accessibility for all to tourist facilities, products, and services should be a central part of any responsible and sustainable tourist policy.\textsuperscript{54} The UNWTO has made Recommendations on Accessible Tourism for All meant to be used as a general, basic mainstreaming framework for ensuring that people with disabilities have access to the physical environment, the transportation system, information and communications channels, as well as to a wide range of public facilities and services.

\textsuperscript{50} \url{http://www.e-unwto.org/doi/abs/10.18111/unwtodeclarations.1995.21.4.1}
\textsuperscript{51} \url{http://www2.unwto.org/technical-product/tourism-legislation-and-regulation}
\textsuperscript{52} \url{http://www.unicef.org/lac/code_of_conduct.pdf}
\textsuperscript{53} \url{https://www.google.co.bw/#q=Global+Report+on+Women+in+Tourism}
\textsuperscript{54} Refer to the UNWTO Recommendations on Accessible Tourism For All featured on \url{http://ethics.unwto.org/en/content/accessible-tourism}
THE KEY ISSUES RELATED TO THE ALIGNMENT AS RAISED BY THE MINISTRY UNDER THE TERMS OF THE CONSULTANCY55

The Key Issues For the alignment of the Tourism Act to the New Constitution as raised by the Ministry are reproduced and listed below in terms of 1.0 to 2.7.

1.0 In the New Constitution, it is noted that the State and all institutions and agencies of the government at every level must recognize the rights of people with physical or mental disabilities but this was not included in the Tourism Act especially the need for people with disabilities to access tourism facilities.

1.1 The Tourism Act is very limited in scope as it more focused on the functions of ZTA and very silent on the role of other integral Tourism players such as the Ministry of Tourism and Hospitality at large.

91. This should be considered in terms of coming up with the appropriate framework for the NTO in the local environment applying the various tools of tourism legislation and regulations as suggested by UNWTO.56

1.2 It was observed that the Act was mainly promulgated to establish ZTA and to provide for its functions (see page 2 of Tourism Act).

1.3 It was recommended that the Scope of the Act be broadened to encompass the roles of key tourism public and private sectors e.g. the Ministry of Tourism.57

1.4 The relationship of ZTA and especially with the Ministry of Tourism and Hospitality Industry should be clarified in the ACT.58

55 Footnotes added to the Key Notes prepared by the Ministry.
56 Refer to the tourism legislation and regulations made by UNWTO http://www2.unwto.org/technical-product/institutional-strengthening-and-public-private-partnership
57 http://www2.unwto.org/technical-product/tourism-legislation-and-regulation
58 Refer to Zimbabwe’s National Tourism Policy and National Tourism Development Policy.

[40]
1.5 Provincial and Local Government (see page 103 of the Constitution speaks about the Provincial and Local government authorities from page 103). The Tourism Act is silent on the relationship between the regional ZTA offices and their respective local authorities. It is therefore recommended that the Tourism ACT speak about these synergies more on how the local government authorities can function as tourist offices.

1.6 Cultural issues are silent in the Act but are in the constitution. (see Page 19 item 16 of the constitution) Cultural Tourism is one of the niche forms of tourism Act to encompass issues to do with cultural tourism under the framework of “Culture” pronounced in the Constitution.59

1.7 There is also need for the Tourism Act to encompass Human Rights issues (for example the rights of the host communities and of the tourist). This is because Part 3) from page 26 to page 39 of the Constitution speaks about Human rights yet the Tourism Act which governs the Tourism Industry, which is a people based industry is silent on the rights issues.

1.8 Immigration and citizenship (see chapter 3 of the Constitution) issues of immigration affect Tourism e.g. border controls. The Tourism Act is silent on immigration issues for example how tourists should be handled at border posts. It is therefore recommended that the Tourism Act encompasses the immigration issues as they are already in the constitution.

1.9 Freedom of movement and residence

1.9.1 Question arise as to how long should a person stay in Zimbabwe on a tourist visa? The Tourism Act states that a tourist can be allowed to stay up to one year, yet the authorities allow ninety days initial stay which can be extended to at most six months.

1.9.2 There is also need to carefully consider the purpose of the visit when aligning the Tourism Act with the New Constitution. For example, should visits for the purpose of the study and education be considered as part of tourism? In such circumstances, which legal instruments then govern tourists to Zimbabwe for study?

59See the Impact of Tourism in Ezeagu Local Government Area of Enugu State by Ezaeni Johnpaul on https://www.google.co.bw/#q=IMPACT+OF+TOURISM+IN+EZEAGU+LOCAL+GOVERNMENT+AREA+OF+ENUGU+STAT
1.10 Tourism Act Sections 5 (1) C

2.0 The Act needs to make provisions for new thinking in the industry e.g. the issue of tourism policy.

2.1.1 Establishment of the National Convention Bureau.
2.1.2 Establishment of a Tourism Development Company.

2.2 Tourism Act Section 22

2.2.1 Human rights issue to be included in the Tourism Act e.g. persons with disability to be given equal opportunities by the industry as employees and access to facilities.

2.3 Tourism Act Chapter 2 (24)

2.3.1 Work and Labour relations should be included in the Tourism Act with specific channel / instruments for the industry.

2.4 Tourism Act Chapter 2 (14)

1.13.1 Empowerment and creation.

2.5 Execution of structure in the Tourism Authority

In the Act the Chief Executive of ZTA is a board member, against modern day practice where a Chief Executive of a Parastatal is an *ex-officio* member of the Board hence the need for realignment of the Act.

2.6 Functions of the Ministry and conduct are in conflict with Zimbabwe Tourism Authority functions.

2.7 Tourism Act section 56 (2b)

1.17.1 Provision of statistics and information to ZTA may contravene the Official Secrets Act, especially Section 56 (2) b. Divulging official secrets is a serious offence and the
Tourism Act should not put tourism players at risk. Instead, the Act should make provisions for the establishment of a functional Tourism Satellite Account (TSA)\(^{60}\)

L: **BRIEF ANALYSIS AND GENERAL COMMENTS TO THE KEY ISSUES RELATED TO THE ALIGNMENT AS IDENTIFIED BY THE MINISTRY**

92. According to Zaei and Zaei defining the touris industry is difficult but in broad terms the key components of the tourism industry sector are: the tourist attractions, accommodation, transport, travel organizers, ancillary services, and destination management organizations.\(^{61}\)

93. In this spirit of mainstreaming disability issues, the UNWTO’s General Assembly has adopted several resolutions, declarations and recommendations on accessibility and this might be a question of implementing some of the recommendations taking into account the local circumstances.\(^{62}\)

94. Reference to some of the decided cases which have been collated in various jurisdictions under the UNEP Global Judges Programme establish that the question of the enforcement of some of the rights do not turn on the provisions of the tourism legislation but the decisive factor relates to the rights entrenched into the Constitutions.\(^{63}\)

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\(^{63}\) [http://www.unep.org/delc/Portals/119/06_HOW_ENVIRONMENTAL_CASES_COME_BEFORE_COURTS.pdf](http://www.unep.org/delc/Portals/119/06_HOW_ENVIRONMENTAL_CASES_COME_BEFORE_COURTS.pdf)
95. This is the case essentially because if all the laws are subject to the supremacy of the Constitution then reference of the rights under the Tourism Act shall only be for purposes of clarity as opposed from creation of new rights unknown to the law applicable in Zimbabwe.64

96. From the comparative study results in respect of the tourism legislation in various countries as read with the various Recommendations made by UNWTO the appropriate model for Zimbabwe can be formulated.

97. The current Tourism Act is very brief and fails to meet the requirements for best practice as shown by the review under the comparative study. The provisions of the new legislation should be redrafted to bring in line with the GCET, the GoZ’ s general policies and the peculiar priorities for tourism, in particular.

98. The provisions for the new legislation should be sufficiently comprehensive but it is important to bear in mind that the new legislation should follow the international norms insofar as these are consistent with the Zimbabwean founding principles as stated in the Constitution and the principles of a market economy.

99. In the new legislation detailed principles should be enacted to guide all tourism development in the country based on among others the UNWTO principles on sustainable development of tourism and on the UNWTO GCET.

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64 See also the List of Court Decisions Relating to Environmental Law on www.elasa.co.za/.../list_of_court_decisions_relati...
M: RECOMMENDATIONS TO BE CONSIDERED IN TERMS OF THE NEW LEGISLATION TO REPLACE THE TOURISM ACT AS PART OF THE ALIGNMENT PROCESS

100. It is recommended that a new and more comprehensive Tourism Law incorporating the latest learning on the tourism sector should be adopted. The new legislation should be formulated and constructed on the basis of the best practices established in the countries which have set the latest trends internationally. It might be ideal that the new legislation to be enacted should incorporate the appropriate enabling provisions that will allow for short, medium and long term regulations to be legislated by the responsible Ministry.

101. A consolidated enactment covering the functions, administration of the national, provincial and local tourism boards as well as the promotion of tourism, the advancement of responsible sustainable tourism and ethical tourism in the country is recommended. It is recommended that a consolidated enactment shall be better placed than splitting the provisions governing the function of tourism in the country to be regulated by different statutes as what is the case in Zambia.

102. Presently it is clear from the objectives of the Tourism Act that it was focused on addressing the functions and administration of the ZTA and that falls far short from the global trends and best practices set in the countries which canvass the issues related to the responsibilities of responsible sustainable tourism, ethical tourism as well as the functions of the NTAs in a single enactment. The current law in Zimbabwe state that it is:

“AN ACT to establish a Zimbabwe Tourism Authority and to provide for its functions; to provide for the appointment and functions of a board of the Authority; to establish a Zimbabwe Tourism Fund; to provide for the appointment of a Chief Executive of the Authority, licensing officers and other officers; to provide for the designation, registration and grading of tourist facilities and for the licensing of persons who provide services connected with tourism; to provide for the imposition and collection of levies in respect of designated tourist
facilities; and to provide for matters connected with or incidental to the foregoing.”

103. From the foregoing it is clear that the scope of the current Tourism Act is narrow as opposed from being wide. The new legislation should therefore be broadened to cover the administration of the tourism boards as well as the promotion of sustainable responsible tourism following the best practices in tourism legislation which can be gathered from the statutes which regulate tourism in Tanzania, Kenya and South Africa. The statutes can be used as reference points to give the guidelines of what other countries have done with their tourism legislation.

104. The Tourism Act reflected the learning which was available at the commencement date when the Act came into operation. The Tourism Act came into operation almost twenty (20) years ago and the outlook of the world has changed since that time. This explains the reason why the current definition of a “tourist” which was enacted in the Tourism Act was restrictive and did not cover all the different accepted forms of tourism as known today. The definition in the Tourism Act limited itself to what can be termed as “international tourism” losing sight of the domestic tourism aspect which is a big component of the tourism sector in any country.

105. In the Tourism Act the law maker defined a tourist as a person spending at least a night in Zimbabwe. This definition shows that the segment which was targeted under the current definition of tourism by the Tourism Act was the inflow of the visits to the country made by foreigners from the source markets such as Europe, Asia and the Americas as opposed from the domestic tourism where the citizens Zimbabwe move across the country. The Interpretation Clause of the Act provides that:

“tourist” means a visitor who spends at least one night in Zimbabwe and whose journey is for any one or more of the following purposes—

(a) a holiday;

(b) recreation;

[46]
106. It is recommended that the new legislation should cover the promotion of the different components of tourism which include international tourism as well as domestic tourism. According to UNWTO there are three basic forms of tourism: domestic tourism, inbound tourism, and outbound tourism. UNWTO further states that these can be combined in various ways to derive the following additional forms of tourism: internal tourism, national tourism and international tourism. Without getting into technicalities the current best practices are that the citizens of the country should be encouraged to take tourist trips within the borders as part of the national tourism strategy of the country.

107. In the Interpretation Clause of the new legislation it is recommended that the Tourism Act should closely follow the definitions as recommended by UNWTO. We have already seen that the glossary as recommended by UNWTO was a product of the international community’s work on defining a new conceptual framework for measuring and analyzing tourism economics; an effort that lasted almost three years (2005/2007). The international consensus that followed, in the form of the United Nations approved International Recommendations, established the concepts, definitions, classifications and the basic set of data and indicators that should be part of any national System of Tourism Statistics hence the new legislation in Zimbabwe should be guided accordingly.65

108. If the new Tourism Act follows the glossary as recommended by UNWTO it shall cure the present shortcoming in the Tourism Act which is restrictive and outdated. The

65Refer to http://media.unwto.org/en/content/understanding-tourism-basic-glossary
Tourism Act is outdated in that for instance it defines visitor as “any person whose usual place of residence is outside Zimbabwe and who visits Zimbabwe for a period not exceeding one year for any reason other than immigration or employment remunerated from within Zimbabwe”\textsuperscript{66} It will be seen from the UNWTO Glossary that the definition of “visitor” makes reference to both the resident and non-resident visitors. At the moment the resident visitors in Zimbabwe are not covered under the definition of visitors in the Tourism Act.

109. The other definitions under the Tourism Act which require to be changed in the new legislation include the definition of excursionist. The word excursionist is currently defined under the Tourism Act to mean a person “who does not spend one or more nights in Zimbabwe” whereas the UNWTO has defined excursionist to mean “A visitor (domestic, inbound or outbound) is classified as a same-day visitor (or excursionist) if his/her trip does not include an overnight stay.” It is therefore recommended that the definition as recommended by UNWTO should be adopted in preference to the current definition made under the Tourism Act.

110. In the circumstances it is recommended that as far as the promotion of internal tourism in the country is concerned the national tourism strategy should also target the promotion of travel within Zimbabwe by the Zimbabweans. In this vein it is recommended that the new legislation should follow the models in countries such as Australia and Nigeria in that their statutes among others specifically provide that domestic tourism within those countries should be promoted.

111. It must further noteworthy that the Tourism Act defined the term “tourist industry” to include all businesses, enterprises and activities which provide tourist facilities, including any such businesses, enterprises and activities carried on by the State, a statutory body or a local authority. It must however be highlighted that the UNWTO Glossary has listed the tourism characteristic products and tourism industries and it is accordingly

\textsuperscript{66} Section 2 of the Tourism Act.
recommended that the definition under the new legislation in Zimbabwe should be in harmony with the definitions as recommended made by UNWTO.

112. On a different aspect it is recommended that in line with the best practices in countries such as Malta and Lesotho the new legislation in Zimbabwe should provide that the Chief Executive Officer of the ZTA should be an *ex-officio* member of the Board. The new enactment should follow what Malta and Lesotho have done in that the Chief Executive of the Board in the two countries is an *ex officio* and a non-voting member of the Board.

113. In addition to making the Chief Executive Officer an ex-officio member of the Board it is recommended that the new Tourism Act in Zimbabwe should introduce to the tourism industry the principles of corporate governance, transparency and accountability as enshrined in the Constitution.

114. In the future the new legislation should be used as a tool to enhance and facilitate the public and private sector partnerships in the promotion and development of tourism in Zimbabwe. This is what the Canadian statute has done and this is a good trend which should be followed in the new Tourism Act.

115. In terms of the institutional structure and the framework of the national, provincial and local tourism boards it is recommended that the Nigerian model be closely followed for benchmarking purposes. Nigeria is a Federal State and it has put the hierarchy of the Federal Tourism Board, the State Tourism Boards as well as the Local Tourism Committees in the country. In Zimbabwe the Constitution introduced the national government, the provincial, the metropolitan as well as the local government structures. This means that the Nigerian model might give a lot of light on how to structure the future institutional framework for Zimbabwe. It must be recalled that at the time the Tourism Act came into operation Zimbabwe did not have the structures of government which are now part of the governance of the country.

116. Critically and importantly Zimbabwe should give effect to UNWTO’s Recommendations which called upon Parliaments and Governments to furnish NTAs with the tools
appropriate to carrying out the responsibilities entrusted to them and to the economic weight of the sector for which they are responsible. Sight should not be lost that one of the requirements of the Constitution is that Zimbabwe should take all the necessary steps to domesticate as part of its national laws the Recommendations made by the international bodies Zimbabwe is signatory to. Consequently it is suggested that the tourism legislation in Zimbabwe should in the future empower the responsible Minister to do the following:

116.1. To gazette the Zimbabwean Codes of Good Practice for Ethical Tourism which shall be implemented to guide conduct relating to provision of tourism services, facilities and products and outline the government in the development and management tourism.

116.2. To promote the achievement of the objects of the future Tourism Act. The objective of the country’s tourism legislation should be identified as what South Africa did in the case of transformation.

116.3. To implement the best practices as recommended by the UNWTO in respect of issues such as accessible tourism to all, gender equality in tourism and the protection of children in the tourism industry to name just but a few current tropical issues.

116.4. To develop and implement the model for the management of the ecosystem in the country. It is noteworthy that the UNWTO spoke highly of the Tanzanian model in that the country adopted parliamentary/ministerial resolutions with the special objective of implementing the GCET principles in Tanzania.

116.5. To adopt the processes which are consistent with the use of e-government, e-commerce mechanisms and ICT in the country’s tourism sector as recommended in the UNMDGs.

117. In the new legislation in Zimbabwe the country should move with the times. In the law making process it should be telling that on Saturday, 24 October 2015 it was reported in the press that South Africa will make its new visa rules easier for visitors with children and those from India, China and Russia, after tourism numbers dropped.68 The lesson to be learnt from our South African neighbours is that the new tourism legislation should be used as a tool to facilitate the development and promotion of tourism as opposed from putting constraints or bottlenecks to the tourism sector in the country.

118. The tourism legislations in the countries which have included the declaration of the policy by the government as well as the identification of the objectives of the national tourism strategy are more informative and educative than those statutes which are silent on these important aspects of tourism. In the premises it is suggested that the new legislation should be framed to include the following:

118.1. A Declaration of Policy on Tourism in the country.

118.2. The formulation of the national tourism periodically. In Kenya the responsible Minister must review the national tourism strategy after every five years.

118.3. A clear identification of the objectives to be achieved in terms of the tourism strategy. The model in the Philippines has given an elaborate list of the objectives to be achieved in the Filipino tourism sector.

118.4. An Interpretation Clause which is guided by the conceptual wisdom gathered from the studies and surveys conducted by UNWTO.

118.5. The institutional framework and strengthening of the ZTA through a new tourism development regime geared to facilitate the cooperation between the public and private sectors in the industry.

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68 [http://af.reuters.com/article/topNews/idAFKCN0SI070220151024](http://af.reuters.com/article/topNews/idAFKCN0SI070220151024)
118.6. Introducing gender parity in the tourism sector.

118.7. The law should make transparency and good corporate governance in ZTA compulsory.

118.8. Making the use of e-government and e-commerce mechanisms (“ITCs”) part of the tourism law.

118.9. Enacting the enabling provisions making the responsible Minister the driver of the tourism function in the country.

118.10. Domesticating into the national laws of the country the international norms, best practices and recommendations.

119. In a nutshell and to the extent possible the new legislation in Zimbabwe should address all the constraints and bottlenecks on the tourism sector which have been identified both locally and in other countries. It follows that the consultative and interactive process by MoTHI should be given the seriousness it deserves as part of the constitutional alignment intervention.

120. Perhaps the alignment process should be taken as an opportunity for the law makers to consider incorporating the inclusion of the incentives or measures designed to strengthen the tourism sector as part of the development and promotion of tourism in the country. What comes to mind is setting up the Zimbabwe Tourism Development Company as suggested by MoTHI. This can be done and a good example which comes to mind is the fact that in terms of the Kenyan statute a college and an international convention centre dedicated to the educational, marketing and development aspects of tourism were put in place by the law.

121. Before concluding it will do well to caution that in coming up with the new legislation in Zimbabwe one must be conscious of the fact that the South African legislation on tourism was enacted as recent as 2014. The South African tourism legislation came into operation
almost two (2) decades the country adopted a new constitution. The significance is that the South Africans did not seek to enact the provisions of the tourism legislation as a replica of the South African Constitution.

122. Ultimately looking at the alignment process at the end of the day what is required the new legislation in Zimbabwe should be flexible as opposed from rigid. It should be capable and should be adoptable to the new norms, values and principles which will change from time to time. Having said this one cannot transplant foreign concepts and implant them into the local Zimbabwean environment. To this end the new tourism legislation and regulations should be a product of thorough consultative and interactive processes with the voices of all the stakeholders in the tourism sector including but not limited to ZTA, ZTB, and ZTDC being heard.

123. This is the methodology as recommended by UNWTO and it must be adopted during the preparation of the legal framework to regulate the Zimbabwean tourism sector. Special case should be taken to ensure that there is consistency with the policies and regulations that are aimed at protecting the environment in general, what the Constitution says and what is expected of Zimbabwe as a Member State of UNWTO.

124. By way of summation the outcome to be expected is that the new legislation should achieve the following:

(a) Minimizing the negative social, cultural, and environmental impacts of tourism.
(b) Maximising the involvement in, and the equitable distribution of economic benefits to, host communities, and citizen entrepreneurs.
(c) Maximising the revenues for re-investment in conservation.
(d) Educating both visitors and local people as to the importance of conserving natural and cultural resources for tourism.
(e) Delivering a quality experience for tourists.

125. In the law development process cross referencing shall be necessary to be made to the following:

[53]
125.1. The Convention on Climate Change.\(^69\)
125.2. The policies of RETOSA as the Regional Tourist Board.\(^70\)
125.3. Parks and Wildlife Act.\(^71\)
125.4. Environment Management Act.\(^72\)
125.5. The Forest Act.\(^73\)
125.6. Natural Resources Act.\(^74\)
125.7. Hazardous Substances and Articles Act.\(^75\)
125.8. Atmospheric Pollution Prevention Act.\(^76\)
125.9. Water Act.\(^77\)
125.10. Communal Land Act.\(^78\)
125.11. Urban Councils Act.\(^79\)
125.12. Traditional Leaders Act.\(^80\)

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\(^69\) The United Nations Framework Convention on Climate Change (UNFCCC) is an international environmental treaty (currently the only international climate policy venue with broad legitimacy, due in part to its virtually universal membership) negotiated at the United Nations Conference on Environment and Development (UNCED). The Government of Zimbabwe signed the UNFCCC at the Earth Summit in Rio de Janeiro in 1992 and ratified it on 5 November 1992. It is committed to fulfill its obligations as laid in the Convention.

\(^70\) [http://www.retosoa.co.za/](http://www.retosoa.co.za/)

\(^71\) The Parks and Wildlife Act [Chapter 20:14 of 1996].


\(^73\) Forest Act [Chapter 19:05]

\(^74\) Natural Resources. Act. [Chapter 211:13]

\(^75\) Hazardous Substances and Articles Act [Chapter 15:05].

\(^76\) Atmospheric Pollution Prevention Act [Chapter 20:03].

\(^77\) Zimbabwe National Water Authority Act [Chapter 20:25].

\(^78\) Communal Land Act [Chapter 20:04]

\(^79\) Urban Councils Act [Chapter 29:15].

\(^80\) Traditional Leaders Act [Chapter 29:17].
CONCLUSION

126. The new legislation in respect of the tourism sector should be as comprehensive, exhaustive and as flexible as possible. Based on the findings of the various surveys and studies UNWTO has made Recommendations for the regulatory reform in the tourism sector. The new legislation in Zimbabwe which is a product of the alignment process must take the country’s traditions and customs into account and be consistent with the founding principles of the Constitution. The new legislation should also have regard to the emerging international and regional legal norms in respect of the best practices in the management of tourism in other countries. There should however be a limit in that the new legislation should not adopt wholesale any model that does not respect the distinctive characteristics of the peoples, historical background, political, social and economic environment in Zimbabwe. To put it differently the new legislation should establish the latest international best practice in the field of the institutional and regulatory framework for the transformation of the tourism sector through the tool of legislation and regulations.