

Southern African Development Community, African Regional Bodies

Protocol on Wildlife Conservation and Law Enforcement

Legislation as at 18 August 1999

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Southern African Development Community

Protocol on Wildlife Conservation and Law Enforcement

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Preamble

WE, the Heads of State or Government of:

The Republic of Angola

The Republic of Botswana

The Democratic Republic of Congo

The Kingdom of Lesotho

The Republic of Malawi

The Republic of Mauritius

The Republic of Mozambique

The Republic of Namibia

The Republic of Seychelles

The Republic of South Africa

The Kingdom of Swaziland

The United Republic of Tanzania

The Republic of Zambia

The Republic of Zimbabwe

AFFIRMING that Member States have the sovereign right to manage their wildlife resources and the corresponding responsibility to sustainably use and conserve these resources;

NOTING that Article 5 of the SADC Treaty states that the sustainable use of natural resources and effective protection of the environment is one of the objectives of SADC;

NOTING also that Article 21 of the Treaty designates natural resources and environment as an area of co-operation for Member States;

AWARE that the conservation and sustainable use of wildlife in the Region contribute to sustainable economic development and the conservation of biological diversity;

CONVINCED that the viability of wildlife resources in the Region requires collective and co-operative action by all Member States;

CONVINCED also that the conservation and sustainable use of wildlife in the Region depend on the proper management and utilisation of wildlife, including enforcement of laws governing such use;

RECOGNISING that the survival of wildlife depends on the perceptions and development needs of people living with wildlife;

BELIEVING that the regional management of wildlife and wildlife products will promote awareness of the socio-economic value of wildlife and enable equitable distribution of the benefits derived from the sustainable use of wildlife;

ACKNOWLEDGING the need for co-operation among Member States in enforcing laws governing wildlife, in sharing information about wildlife resources and wildlife law enforcement, and in building national and regional capacity to manage wildlife and enforce the laws that govern it;

RECALLING that all Member States are members of the International Criminal Police Organisation (Interpol), and that all are signatories or parties to the Convention on Biological Diversity (Rio de Janeiro, 1992), the African Convention on the Conservation of Nature and Natural Resources (Algiers, 1968) and the Convention on international Trade in Endangered Species of Wild Fauna and Flora (CITES) (Washington, 1973);

NOTING the conclusion of the Southern African Convention for Wildlife Management (SACWM, 1990), the Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (Lusaka, 1994) and the Master Plan for the Security of Rhino and Elephant in Southern Africa (1996); and

DESIRING to establish a common framework for the conservation and sustainable use of wildlife resources in the Region and to assist with the effective enforcement of laws governing those resources;

HEREBY agree as follows:

Article 1 – Definitions

In this Protocol the terms and expressions defined in Article 1 of the Treaty shall bear the same meaning unless the context otherwise requires.

In this Protocol, unless the context otherwise requires:

“**Community based wildlife management**” means the management of wildlife by a community or group communities which has the right to manage the wildlife and to receive the benefits from that management;

“**Conservation**” means the protection, maintenance, rehabilitation, restoration and enhancement of wildlife and includes the management of the use of wildlife to ensure the sustainability of such use;

“**State Party**” means a Member State that ratifies or accedes to this Protocol;

“**Sustainable use**” means use in a way and at a rate that does not lead to the long-term decline of wildlife species;

“**Transfrontier conservation area**” means the area or the component of a large ecological region that straddles the boundaries of two or more countries, encompassing one or more protected areas, as well as multiple resources use areas;

“**Taking**” means the hunting, killing, injuring, capturing, harassing, collecting, picking, uprooting, digging up, cutting, destruction and removal of any species of wildlife and include any attempt to engage in such conduct;

“**Wildlife**” means animal and plant species occurring within natural ecosystems and habitats.

Article 2 – Scope

This Protocol applies to the conservation and sustainable use wildlife resources, excluding forestry and fishery resources.

Article 3 – Principles

1. Each State Party shall ensure the conservation and sustainable use of wildlife resources under its jurisdiction. Each State Party shall ensure that activities within its jurisdiction or control do not cause damage to the wildlife resources of other states or in areas beyond the limits of national jurisdiction.

2. Pursuant to the attainment of the principles contained in Article 3 of this Protocol, State Parties shall:

- a) ensure co-operation at the national level among governmental authorities, non-governmental organisations and the private sector;
- b) cooperate to develop as possible common approaches to the conservation and sustainable use of wildlife; and
- c) collaborate to achieve the objectives of international agreements which are applicable to the conservation and sustainable use of wildlife and to which they are party.

In implementing this Protocol, State Parties shall:

- a) take such policy, administrative and legal measures as appropriate to ensure the conservation and sustainable use of wildlife;
- b) take measures as are necessary to enforce national legislation pertaining to wildlife effectively; and
- c) cooperate with other Member States to manage shared wildlife resources as well as any transfrontier effects of activities within their jurisdiction or control.

Article 4 – Objectives

1. The primary objective of this Protocol is to establish within the Region and within the framework of the respective national laws of each State Party, common approaches to the conservation and sustainable use of wildlife resources and to assist with the effective enforcement of laws governing those resources.
2. Specific objectives of this Protocol shall be to:
 - a) promote the sustainable use of wildlife;
 - b) facilitate the harmonisation of the legal instruments governing wildlife use and conservation;
 - c) promote the enforcement of wildlife laws within, between and among State Parties;
 - d) facilitate the exchange of information concerning wildlife management, utilisation and the enforcement of wildlife laws;
 - e) assist in the building of national and regional capacity for wildlife management, conservation and enforcement of wildlife laws;
 - f) promote the conservation of shared wildlife resources through the establishment of transfrontier conservation areas; and
 - g) facilitate community-based natural resources management practices for management of wildlife resources.

Article 5 – Institutional arrangements

1. The institutional mechanisms for the implementation of this Protocol shall be:
 - a) Wildlife Sector Technical Coordinating Unit;
 - b) Committee of Ministers responsible for Food, Agriculture and Natural Resources;
 - c) Committee of Senior Officials; and
 - d) Technical Committee.

2. The Committee of Ministers responsible for Food, Agriculture and Natural Resources shall:
 - a) be composed of Ministers responsible for Food, Agriculture and Natural Resources in Member States;
 - b) meet at least once a year; and
 - c) be chaired by the Minister representing the Member State co-ordinating for Food, Agriculture and Natural Resources.
3. The functions of the Committee of Ministers shall include:
 - a) adopting regional wildlife policies and development strategies;
 - b) considering and approving any amendment to the policies and strategies;
 - c) providing policy guidance with respect to matters referred to it by the Committee of Senior Officials;
 - d) considering and approving the sectoral Annual Report before submission to the Council;
 - e) submitting proposals to the Council for amending the provisions of this Protocol;
 - f) supervising the implementation of this Protocol;
 - g) supervising the work of any Committee or Sub-committee established under this Protocol;
4. The Committee of Senior Officials shall:
 - a) consist of administrative heads of Ministries responsible for wildlife or their representatives;
 - b) meet at least once a year;
 - c) be chaired by the nominated officials representing the country responsible for Food, Agriculture and Natural Resources.
5. The functions of the Committee of Senior Officials shall include:
 - a) assessing the requirements of and the need for updating and amending the regional policy and development strategies;
 - b) reviewing and coordinating the activities of the Committees;
 - c) considering any amendment to this Protocol;
 - d) reporting to the Committee of Ministers on matters relating to the implementation of the provisions contained in this Protocol;
 - e) reviewing the activities pertaining to wildlife;
 - f) approving the documents to be submitted to the Committee of Ministers; and
 - g) performing such other functions as may be determined by the Committee of Ministers
6. The Technical Committee shall comprise the heads of wildlife departments or their representatives and shall:
 - a) meet at least once a year;
 - b) be chaired by the official representing a Member State responsible for co-ordinating activities pertaining to wildlife.
7. The function of the Technical Committee shall be to co-ordinate development of policy guidelines for common regional approaches to the conservation and sustainable use of wildlife resources.

8. Wildlife Sector Technical Coordinating Unit shall:
- a) be the Secretariat responsible for implementing this Protocol at the regional level;
 - b) co-ordinate with the designated sectoral contact points;
 - c) co-ordinate the efforts of State Parties to adopt common approaches to the conservation and Sustainable use of wildlife, to harmonise their applicable legislation, and to co-operate in necessary law enforcement;
 - d) support the efforts of Member States and non-governmental organisations to ensure the conservation and sustainable use of wildlife and the involvement of local communities in such efforts;
 - e) promote such co-operation between the national wildlife law enforcement authorities, communities and by non-governmental organisations on all issues related to enforcement;
 - f) co-ordinate regional programmes for research and capacity building in the management of wildlife resources;
 - g) liaise with other sectors to promote intersectoral co-operation in wildlife management; such as standardising veterinary regulations which govern the movement of wildlife and wildlife products; and
 - h) perform any other task which may be assigned by the Council for the purpose of implementing this Protocol.

Article 6 – Legal instruments for the conservation and sustainable use of wildlife

1. State Parties shall adopt and enforce legal instruments necessary to ensure the conservation and sustainable use of wildlife resources.
2. State Parties shall endeavour to harmonise national legal instruments governing the conservation and sustainable use of wildlife resources and such harmonisation shall relate to:
 - a) measures for the protection of wildlife species and their habitat;
 - b) measures governing the taking of wildlife;
 - c) measures governing the trade in wildlife and wildlife products and bringing the penalties for the illegal taking of wildlife and the illegal trade in wildlife and wildlife products to comparable deterrent levels;
 - d) powers granted to wildlife law enforcement officers;
 - e) procedures to ensure that individuals charged with violating national laws governing the taking of and trading in wildlife and wildlife products are either extradited or appropriately sanctioned in their home country;
 - f) measures facilitating community based natural resources management practices in wildlife management and wildlife law enforcement;
 - g) economic and social incentives for the conservation and sustainable use of wildlife;
 - h) measures incorporating obligations assumed under applicable international agreements to which Member States are party;
 - i) any other measures which the Council may deem necessary.
3. Wildlife Sector Coordinating Unit shall co-ordinate initiative of State Parties to harmonise national legislation governing the conservation and sustainable use of wildlife.

Article 7 – Wildlife management and conservation programmes

1. State Parties shall establish management programmes for the conservation and sustainable use of wildlife and integrate such programmes into national development plans.
2. State Parties shall assess and control activities which may significantly affect the conservation and sustainable use of wildlife so as to avoid or minimise negative impacts.
3. Measures which shall be taken by State Parties to ensure the conservation and sustainable use of wildlife shall include—
 - a) the protection of wildlife resources and wildlife habitats to ensure the maintenance of viable wildlife populations;
 - b) prevention of over-exploitation and extinction of wildlife species;
 - c) restrictions on the taking of wildlife, including restriction on the number, sex, size or age of specimens taken and the locality and season during which they may be taken; and
 - d) restrictions on trade in wildlife resources and products, both nationally and internationally, as required by the relevant national and international laws applicable to Member States.
4. State Parties shall establish or introduce mechanisms for community-based wildlife management and shall, integrate principles, and techniques derived from indigenous knowledge systems into national wildlife management and law enforcement policies and procedures.
5. State Parties shall, as appropriate, establish programmes and enter into agreements:
 - a) to promote the co-operative management of shared wildlife resources and wildlife habitats across international borders; and
 - b) to promote co-operative management, the conservation of species and populations and the marketing of their products.
6. State Parties shall promote economic and social incentives to encourage the conservation and sustainable use of wildlife.
7. States Parties shall, as appropriate, develop programmes and mechanisms to:
 - a) educate the general public and raise public awareness concerning issues of the conservation and sustainable use of wildlife;
 - b) build nations and regional capacity for wildlife management and law enforcement;
 - c) promote research which contributes to and supports the conservation and sustainable use of wildlife.
8. State Parties shall in recognition of the important role played by rural communities in the conservation and sustainable use of wildlife, promote community-based conservation and management of wildlife resources.
9. State Parties shall promote the development of transfrontier conservation and management programmes.

Article 8 – Information sharing

1. The State Parties shall establish a regional database on the status and management of wildlife. The regional database shall:
 - a) comprise data on all wildlife resources within the Region; and
 - b) be accessible to States Parties and to the general public.

2. Wildlife Sector Technical Co-ordinating Unit shall:
 - a) co-ordinate surveys of all wildlife databases in the Region;
 - b) on the basis of the results of the surveys, coordinate the establishment of a regional database which compliments those already in existence;
 - c) co-ordinate the development of standard methodologies for wildlife inventories;
 - d) upon request assist efforts at the national level and co-ordinate efforts at the regional level to gather data for incorporation into the regional database;
 - e) serve as the clearing house mechanism for the regional database;
 - f) ensure that the regional database is linked with other appropriate databases in the Region and that it is accessible; and
 - g) perform any other task necessary for the establishment and functioning of the regional database.

Article 9 – Co-operation in wildlife law enforcement

1. State Parties shall take the necessary measures to ensure the effective enforcement of legislation governing the conservation and sustainable use of wildlife resources.
2. State Parties shall allocate appropriate financial and human resources required for the effective enforcement of legislation governing the conservation and sustainable use of wildlife.
3. The enforcement of legislation referred to in paragraph 2:
 - a) coordinating with their designated Interpol National Central Bureaus (Interpol NCBs);
 - b) exchanging information concerning the illegal taking of, and trade in, wildlife and wildlife products;
 - c) co-ordinating efforts with wildlife law enforcement authorities and Interpol NCBs to apprehend illegal takers and traders and to recover and dispose of illegal wildlife products; and
 - d) undertaking any other initiatives which promote the effective and efficient enforcement of wildlife laws and regulations within, between and among State Parties.
4. Through the designated Interpol NCB, the wildlife law enforcement authorities in a State Party may request from the designated Interpol NCB in any other State Party or States Parties any assistance or information which may be required to locate, apprehend, or extradite an individual charged with violating the wildlife laws of the State Party.
5. The wildlife law enforcement authorities in each State Party shall provide to the designated Interpol NCB in that Member State all available data on, *inter alia*, the location and movements of illegal takers and traders and the location of routes for illegal transfrontier trafficking in wildlife and wildlife products, except where the provision of such information would jeopardise investigations or impinge on the security of a State Party.

Article 10 – Capacity-building for effective wildlife management

1. State Parties shall co-operate in capacity building for effective wildlife management.
2. State Parties shall endeavour to incorporate into existing training programmes, techniques such as community-based natural resources management and administration, indigenous knowledge systems as well as current practices in both the wildlife management and wildlife law enforcement fields.
3. State Parties shall identify aspects of wildlife management and wildlife law enforcement for which adequate training programmes are not available within the Region and shall establish training programmes to meet the needs identified.

4. The Wildlife Sector Technical Co-ordinating Unit shall co-ordinate initiatives of State Parties to standardise and initiate training programmes.

Article 11 – Financial provisions

1. A State Party shall at national level allocate the necessary financial resources for the effective implementation of this Protocol.
2. Members of committees shall meet their own expenses.
3. State Parties shall create a fund to be known as the "Wildlife Conservation Fund" for programmes and projects related to the implementing of this Protocol.
4. Resources of the Wildlife Conservation Fund shall include financial contributions by State Parties grants, donations, technical assistance and funds for specified projects and programmes pursuant to the implementation of this Protocol.

Article 12 – Sanctions

1. Sanctions may be imposed against any State Party which:
 - a) persistently fails, without good reason, to fulfil obligations assumed under this Protocol; or
 - b) implements policies which undermine the objectives and principles of this Protocol.
2. The Council shall determine whether any sanction should be imposed against a State Party and shall make the recommendation to the Summit if it decides that a sanction is called for. The Summit shall decide, on a case-by-case basis, the appropriate sanction to be imposed.

Article 13 – Settlement of disputes

Any dispute arising from the interpretation or application of this Protocol which cannot be settled amicably shall be referred to the Tribunal.

Article 14 – Annexes

1. State Parties may develop and adopt annexes for the implementation of this Protocol.
2. An annex shall form an integral part of this Protocol.

Article 15 – Amendment

An amendment to this Protocol shall be in accordance with the procedures established by Article 36 of the Treaty.

Article 16 – Signature

This Protocol shall be signed by the duly authorised representatives of the Member States.

Article 17 – Ratification

This Protocol shall be subjected to ratification by the signatories in accordance with their constitutional procedures.

Article 18 – Entry into force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds of the States listed in the Preamble.

Article 19 – Accession

This Protocol shall remain open for accession by any Member State.

Article 20 – Withdrawal

1. Any State Party may withdraw from this Protocol upon the expiration of twelve (12) months from the date of giving to the Executive Secretary a written notice to that effect.
2. Any State Party that has withdrawn pursuant to paragraph 1 shall cease to enjoy all rights and benefits under this protocol upon the withdrawal becoming effective but shall remain bound by the obligations herein for a period of twelve (12) months from the date of giving notice to the date the withdrawal becomes effective.

Article 21 – Depositary

1. The original text of this Protocol and all instruments of ratification and accession shall be deposited with the Executive Secretary who shall transmit certified copies to all Member States.
2. The Executive Secretary shall register this Protocol with the Secretariats of the United Nations and the Organisation of African Unity.

IN WITNESS WHEREOF, WE, the Heads of State or Government, or duly authorised representatives of Member States have signed this Protocol.

DONE at Maputo on the 18th day of August, 1999, in three (3) original texts, in the English, French and Portuguese languages, all texts being equally authentic.