

Protocol on Wildlife Conservation and Law Enforcement

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
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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 SADC Treaty designates natural resources and environment as an area of co-operation for SADC Member States;

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

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

CONVINCED also that the conservation and sustainable use of wildlife in the SADC 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 SADC 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 ALSO the agreement for the establishment 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);

DESIRING to establish a common framework for the conservation and sustainable use of wildlife resources in the SADC 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 of 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 of SADC 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 of wildlife, 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, States Parties shall:

a) ensure co-operation at the national level among governmental authorities, non-governmental organisations hereinafter referred to as NGOs, and the private sector;

b) cooperate to develop as far 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, States 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. To this end, specific objectives of this Protocol shall be to:

a) promote the sustainable use of wildlife;

b) harmonise legal instruments governing wildlife use and conservation;

c) enforce wildlife laws within, between and among States 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 arrangements shall be:

- a) the Wildlife Sector Technical Coordinating Unit;
- b) the Committee of Ministers responsible for Food, Agriculture and Natural Resources;
- c) the 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 of Food, Agriculture and Natural Resources on matters relating to the implementation of the provisions contained in this Protocol;
- e) reviewing the work of the Wildlife Sector;
- f) approving the documents prepared by the Wildlife Sector Technical Coordinating Unit (hereinafter referred to as WSTCU) to be submitted to the Committee of Ministers of Food, Agriculture and Natural Resources;
- g) monitoring the implementation of this Protocol; and
- h) performing such other functions as may be determined by the Committee of Ministers.

6. The Wildlife Sector Technical Committee (hereinafter referred to as WSTCU) 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 the country responsible for co-ordinating the Wildlife Sector

7. The functions of the Wildlife Sector Technical Committee shall be to;

- a) supervise the implementation of this Protocol; and
- b) co-ordinate development of policy guidelines for common SADC regional approaches to the conservation and sustainable use of wildlife.

8. The WSTCU 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 States 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 Governments and NGOs 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 NGOs, on all issues related to enforcement;
- f) serve as the regional clearinghouse for the exchange of information;
- g) co-ordinate SADC regional programmes for research and capacity building in the management of wildlife;
- h) liaise with other SADC sectors to promote intersectoral co-operation in wildlife management; such as standardising veterinary regulations which govern the movement of wildlife and wildlife products; and
- i) 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. States Parties shall adopt and enforce legal instruments necessary to ensure the conservation and sustainable use of wildlife as provided in Article 7 of this Protocol.
2. States Parties shall endeavour to harmonise national legal instruments governing the conservation and sustainable use of wildlife; such harmonisation shall include but not be limited to standardising:
 - 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. The WSTCU shall co-ordinate initiatives of Member States to harmonise national legislation governing the conservation and sustainable use of wildlife.

ARTICLE 7

WILDLIFE MANAGEMENT AND CONSERVATION PROGRAMMES

1. States Parties shall establish management programmes for the conservation and sustainable use of wildlife and integrate such programmes into national development plans.
2. States 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 States Parties to ensure the conservation and sustainable use of wildlife shall include -
 - a) the protection of wildlife and wildlife habitats to ensure the maintenance of viable wildlife populations;
 - b) prevention of over-exploitation and extinction of species;
 - c) restrictions on the taking of wildlife, including but not limited to restrictions 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 and its products, both nationally and internationally, as required by relevant international agreements.

4. States Parties shall establish or introduce mechanisms for community-based wildlife management and shall, as appropriate, integrate principles, and techniques derived from indigenous knowledge systems into national wildlife management and law enforcement policies and procedures.

5. States 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. States Parties shall, as appropriate, 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 national 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. States 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. States Parties shall, in recognition of the location of key wildlife resources near international boundaries, promote the development of trans frontier conservation and management programmes.

ARTICLE 8

INFORMATION SHARING

1. The States 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. The WSTCU shall:

- a) co-ordinate surveys of all wildlife databases in the SADC Region;
- b) on the basis of the results of the surveys, coordinate the establishment of a Regional database which complements 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 mutually 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. States Parties shall take the necessary measures to ensure the effective enforcement of legislation governing the conservation and sustainable use of wildlife.
2. States Parties shall allocate the financial and human resources required for the effective enforcement of legislation governing the conservation and sustainable use of wildlife.
3. States Parties shall enforce legislation governing the conservation and sustainable use of wildlife, particularly in trans frontier contexts. Such enforcement shall include:
 - 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 States 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. States Parties shall co-operate in capacity-building for effective wildlife management.

2. States 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. States 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 WSTCU shall co-ordinate, at the regional level, initiatives of States Parties to standardise and initiate training programmes.

ARTICLE 11

FINANCIAL PROVISIONS

1. States Parties shall allocate the necessary financial resources for the effective implementation of this Protocol at the national level.
2. Member States shall meet their own expenses for attending meetings of the WSTC .
3. Member States shall create a fund known as the Wildlife Conservation Fund for programmes and projects associated with this Protocol pursuant to Article 25 of the Treaty.
4. Other resources of the Wildlife Conservation Fund may include grants, donations, technical assistance and funds for specified projects and programmes pursuant to 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 for adjudication.

ARTICLE 14

ANNEXES

1. States Parties may develop and adopt annexes for the implementation of this Protocol.
2. An annex shall form an integral part of this Protocol unless the annex contains a provision stipulating otherwise.

ARTICLE 15

AMENDMENT

1. An amendment to this Protocol shall be adopted by a decision of Members of the Summit who are Parties to this Protocol.
2. A proposal for the amendment of this Protocol may be made to the Executive Secretary by any State Party to this Protocol. Within thirty (30) days of receipt, the Executive Secretary shall notify the States Parties to this Protocol of any proposal for amendment. Three (3) months after notification, the Executive Secretary shall submit the proposal for amendment to the Council for preliminary consideration.

ARTICLE 16

SIGNATURE

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

ARTICLE 17

RATIFICATION

This Protocol shall be ratified by the signatory Member States 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 Member States.

ARTICLE 19

ACCESSION

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

ARTICLE 20

RESERVATIONS

No reservations shall be made to this Protocol.

ARTICLE 21

WITHDRAWAL

1. Any State Party wishing to withdraw from this Protocol shall give written notice of its intention, six (6) months in advance, to the Executive Secretary. Withdrawal shall be effective on the date of expiration of the notice period.
2. Any States Parties withdrawing from this Protocol shall:
 - a) cease to enjoy all rights and benefits under this Protocol from the effective date of the withdrawal;
 - b) remain bound to the obligations assumed under this Protocol for a period of twelve (12) months from the date of withdrawal.

ARTICLE 22

TERMINATION

This Protocol may be terminated by a decision of the Summit.

ARTICLE 23

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 SADC Member States have signed this Protocol.

DONE at Maputo, on the 18th day of August, 1999, in two (2) original texts, in the English and Portuguese languages, both texts being equally authentic.

REPUBLIC OF ANGOLA

REPUBLIC OF BOTSWANA

DEMOCRATIC REPUBLIC OF CONGO

KINGDOM OF LESOTHO

REPUBLIC OF MALAWI

REPUBLIC OF MAURITIUS

REPUBLIC OF MOZAMBIQUE

REPUBLIC OF NAMIBIA

REPUBLIC OF SEYCHELLES

REPUBLIC OF SOUTH AFRICA

KINGDOM OF SWAZILAND

UNITED REPUBLIC OF TANZANIA

REPUBLIC OF ZAMBIA

REPUBLIC OF ZIMBABWE