

## THE ASSEMBLY OF THE REPUBLIC

Act n° 10  
of 7<sup>th</sup> July 1999

The economic, cultural, social and scientific importance of forest and fauna resources to the Mozambican society calls for the establishment of an appropriate law. Such law shall promote its sustainable use and shall further promote initiatives that will ensure the protection and conservation of the forest and fauna resources, with the view to improving the living conditions of the people.

In these terms and under the provisions set forth in paragraph No. 1 of Article 135 of the Constitution, the Assembly of the Republic edicts:

### Chapter I General Provisions

#### Article 1 (Definitions)

In this Act, these concepts shall mean:

1. **“Degraded areas”** means areas with adverse changes to the environment, including *inter alia*, pollution, desertification, loss of habitat, erosion and deforestation.
2. **“Environmental impact assessment”** means an environmental management preventive instrument, consisting of the identification and previous qualitative and quantitative analysis of the positive and negative environmental effects of a proposed activity.
3. **“Biodiversity”** means the variety of living organisms, including genotypes, species and their groupings, land and aquatic ecosystems and the existing ecological processes of a given region.
4. **“Hunting”** means the waiting, pursuing, capturing, catching, mutilation, killing, destruction or use of wildlife species, in any phase of their development or the organisation of expeditions with such purposes.
5. **“Local community”** means groups of families and individuals living in a limited territorial space, with the size of a locality or smaller, and who wish to safeguard common interests, through the protection of their areas of residence, agricultural land, both under cultivation or fallow land, forests, sites of cultural significance, grazing fields, water sources, hunting and expansion areas.
6. **“Conservation”** means the sustainable management of fauna and forest resources, without causing risk to bio-diversity.

7. **“Forest concession”** means the demarcated public area granted to a specific individual through a concession contract, and meant for forest exploration for industrial purposes, subject to the observance of a previously approved management plan.
8. **“Official game reserve”** means the demarcated public areas meant for game hunting, promotion of cynegetic tourism and for the protection of species, in which the right to hunt is only granted through a concession contract signed between the concessionaire and the State.
9. **“Self consumption”** means the non-profitable exploration of fauna and forests by the local communities in order to meet their needs in terms of consumption and production of handicrafts, based on their customs.
10. **“Sustainable development”** means development based on an environmental management that meets the needs of the present generation without jeopardising the environmental balance, so that the needs of future generations can also be met.
11. **“Remains”** means the meat, fat, hide, blood and the other remaining parts of the animal that are not considered trophies.
12. **“Ecosystem”** means the dynamic universe of communities of plants, animals and micro-organisms and its non-living surroundings, that interact as a functional unit.
13. **“Fragile ecosystem”** means the ecosystem the features of which are susceptible to rapid degradation and whose restoration is difficult due to its natural characteristics and geographical location.
14. **“Erosion”** means the loosening of soil surface as a result of the natural action of wind or water, aggravated by the human practice of removing vegetation.
15. **“Specie”** means any specie, subspecies or one of their geographically isolated populations.
16. **“General closed season”** means the period of the year that coincides with the reproduction and growth of fauna and forest species, during which game hunting and forest exploration activities are prohibited in the whole country.
17. **“Special closed season”** means the period of the year that coincides with forest reproduction and with the growth of certain fauna and forest species, during which game hunting or forest exploration activities are prohibited in certain areas or for certain forest or fauna species.
18. **“Forest exploration”** means the set of measures and activities related to the extraction of forest products aimed at meeting human needs, namely, tree felling, transportation, sawing of firewood, extraction, drying, including the production of charcoal, as well as timber processing activities and any other such activities that may fall under that category as a result of technical developments, regardless of its purpose.

**19. “Sustainable exploration”** means the rational and controlled use of forest and fauna resources, through the application of scientific and technical know-how, in the view to achieve the objectives of conservation of resources for the present and future generations.

**20. “Wildlife”** means the set of land and amphibious animals, wild birds and all aquatic mammals, of any specie, in any phase of their development, that live naturally, as well as the wild species captured for husbandry, excluding fishery resources.

**21. “Wildlife farms”** means the delimited areas, both with or without fencing, but which are properly signalled, in which the right to hunt is limited to the holders of land tenure, or those authorised by them, being both the former and the latter subject to the holding of the respective licence issued by the competent authority.

**22. “Forest”** means the vegetation coverage that can supply timber or plant products, host fauna and impact directly or indirectly on the soil, climate or on the water regime.

**23. “Integrated management”** means the management of forest resources and its respective fauna, including the control and use of such resources in compliance with the law and its regulations, ensuring the effective participation of institutions, local communities, associations and the private sector.

**24. “Forest inventory”** means the collection, measurement and registration of data on the quality and volume of forest resources, the condition of its dynamics, regeneration and products that can be obtained by surface area, in such a way to provide information for the sustainable management of a particular region or forest.

**25. “Fauna inventory”** means the collection, measurement and registration of data on the composition by specie or animals, surface area density, density by age group and by sex and the situation of population density, in such a way to provide information for the sustainable management of wildlife.

**26. “Monitoring”** means the process of repeated observations and measurements of one or more elements or indicators on environment quality, in accordance to pre-established programmes, in terms of time and space, to assess the impact of human activities on natural resources or on the environment.

**27. “National operators”** means national individuals and incorporated companies owned exclusively by Mozambican citizens.

**28. “National park”** means the demarcated territorial space, which is meant for the preservation of natural ecosystems that are scenically very beautiful and which are representative of the national heritage.

**29. “Management plan”** means the technical document containing the activities and other technical measures to be implemented by various stakeholders for the conservation, management and use of forest and fauna resources.

**30. “Forest plantations”** means the establishment of a continuous arboreal vegetation coverage, normally by planting native or exotic species of trees.

**31. “Forest and fauna resources”** means forests and other forms of vegetation, including both processed and unprocessed forest products, wildlife, trophies and remains.

**32. “National reserve”** means the territorial space meant for the preservation of certain rare, endemic, threatened or endangered species of flora and fauna, or those that seem to be diminishing as well as the fragile ecosystems.

**33. “Objective responsibility”** means the legal obligation of repairing, compensating and of doing or stop from doing something, imputed to the person causing the damage, whether intentionally or unintentionally.

**34. “Trophies”** means the durable parts of wild animals, namely, the head, skull, horns, teeth, hide, bristle, nails, claws, other parts of the body and the egg cover, nests, and feathers, as long as they have not lost their original aspect due to any manufacturing process.

**35. “Cynegetic tourism”** means the game hunting activity, including photographing or filming of wild animals for commercial or recreational purposes.

**36. “Alternative use of land”** means the designation of areas covered by forests and by other forms of natural vegetation for agriculture, husbandry, or for any other use, based on zoning or on a land use plan, that changes the characteristics of its original condition, including public works with a big impact, such as roads, railways, dams and the erection of electrical power transmission towers.

**37. “Areas of use and with cultural and historic importance”** means the demarcated territorial space for the protection of sacred forests and other historic sites of important cultural use for the local community.

**38. “Buffer zones”** means the portion of territory around a protected area, constituting the transitional strip between the protected area and areas of multiple use, for the purpose of controlling and reducing impacts resulting from human action in the respective protected area.

**39. “Zoning”** means division and classification of forest and fauna resources, according to the type of vegetation and the alternative use of land.

## Article 2 (Application)

This Act establishes basic principles and norms on the protection, conservation and sustainable use of forest and fauna resources, within the framework of integrated management, for the socio-economic development of the country.

## Article 3 (Principles)

The provisions of this Act and its regulation shall be governed in accordance to the following principles:

- a) **of the public domain of the State:** the natural forest and fauna resources existing in the national territory are the property of the State;
- b) **of the equilibrium:** socio-economic development and bio-diversity preservation and conservation policies shall involve the local communities, the private sector and the civil society in general, with the view to attain a sustainable development both for the present and future generations;
- c) **of the prevention and prudence:** the introduction of modern technology, animal and plant species in the forest and fauna sector shall be preceded by the assessment of their impact on the same, with the objective of ensuring their sustainability;
- d) **of the objective responsibility:** all those who cause damage to forest and fauna resources is obliged to undertake its restoration or to compensate the for degradation as well as for the damages caused to third parties, irrespective of other legal consequences;
- e) **of the harmony with the local communities and local State bodies:** promotion of conservation, management and use of forest and fauna resources without prejudice to the customary practices and in conformity to the principles of conservation and sustainable use of forest and fauna resources, within the framework of decentralisation;
- f) **of the participation of the private sector:** involvement the private sector in the management, conservation and exploration of forest and fauna resources, with the aim of giving more added value and foster a greater development to the local communities;
- g) **of the principle of study and research:** promotion of research on the native species so that all users and stakeholders involved in the conservation, management and use of these resources collect data and undertake measurements to be subsequently processed by the competent entities;
- h) **of the formal and informal environment education:** education and exchange of experiences between the local communities with the aim to build their capacities on the management and conservation of forest and fauna resources;
- i) **of the international co-operation:** the joint identification of solutions with other countries and international organisations with regard to the protection, conservation and management of the forest and fauna resources.

#### Article 4 (Objectives)

In the terms of this act, the objectives to be pursued are the protection, conservation, development and the rational and sustainable use of forest and fauna resources for the economic, social and ecological benefit of the present and future generations of Mozambicans.

#### Article 5

### **(Forest heritage)**

Depending on its potential, location and form of use, the national forest heritage can be classified as follows:

- a) **conservation forests:** constituted of vegetal formations located in the protection areas subject to a special management regime;
- b) **productive forests:** constituted of vegetal formations of high forest potential located outside the protection areas;
- c) **multiple use forests:** constituted of vegetal formations of low forest potential located outside the protection areas.

### Article 6 **(Fauna heritage)**

Fauna heritage is constituted by the wildlife that exists on the national territory and is classified in accordance with their rarity, economic and social-cultural value, to be contained in a list of species to be established by a specific diploma.

### Article 7 **(Participation of the national private sector)**

In the application of the regulatory measures of this Act, the Council of Ministers shall include measures to encourage the national private sector to participate in the exploration, management and conservation of forest and fauna resources.

### Article 8 **(Exportation of forest and fauna products)**

The State promotes the establishment of forest and fauna products processing industries, with the aim to gradually increase the exportation of manufactured products, through specific regulatory measures.

### Article 9 **(Holders of land tenure)**

The holders of land tenure, both acquired through occupation or by authorisation, should acquire licences for the exploration of the natural forest and fauna resources found in their areas, unless if it is for their own consumption.

## **Chapter II Protection of Forest and Fauna Resources**

Article 10  
**(Protection areas)**

1. Protection areas are demarcated territorial areas, representing the national natural heritage, meant for the conservation of bio-diversity and of fragile ecosystems or of animal or plant species.
  
2. The following are considered to be protection areas:
  - a) national parks;
  - b) national reserves;
  
  - c) Areas of use and with cultural and historic importance.
  
3. The Council of Ministers has the responsibility to establish a buffer zone around any protection area, in which multiple uses may be allowed with restrictions as may be established by the respective management plan.
  
4. The Council of Ministers has the responsibility to create, modify or cancel the protection areas referred to in subparagraphs a) and b) of paragraph 2 above.
  
5. The management of the protected areas referred to in sub-paragraphs a) and b) of paragraph 2 shall be done according to the management plan drafted with the participation of the local communities and approved by the sector of tutelage.
  
6. The respective Provincial Governors have the responsibility to declare the areas referred to in subparagraph c) of paragraph 2, under the terms and conditions to be defined by a Decree of the Council of Ministers.
  
7. The delimitation of the protected areas must necessarily be registered with the National Land Cadaster.
  
8. By virtue of necessity, public use or interest, the Council of Ministers may, exceptionally, authorise the undertaking of certain activities in the protection areas referred to in this Act.

Article 11  
**(National parks)**

1. National parks are demarcated areas of total protection, meant for propagation, protection, conservation and management of wild vegetation and animals, as well as protection of sites, landscapes or geological formations of special scientific, cultural

or aesthetic importance for public interest and recreation, which are representative of the national heritage.

2. The following activities are strictly forbidden in national parks, except when they are prompted by scientific reasons or by management needs:
  - a) game hunting within the boundaries of the park;
  - b) forest, agriculture and mining exploration or animal breeding.
  - c) survey or prospecting, drilling or construction of embankments;
  - d) any activity that tends to modify the land aspect or vegetation characteristics, as well as to cause water pollution, and in general, any act that, by its nature, is likely to disrupt flora and fauna.
  - e) any introduction of zoological or botanical species, both indigenous and imported, wild or domestic.

#### Article 12 **(National reserves)**

1. National reserves are areas of total protection meant for the protection of certain species of rare, endemic, endangered and evidently diminishing flora and fauna and fragile ecosystems such as wetlands, dunes, mangroves and corals, as well as the conservation of the flora and fauna found in those ecosystems.
2. The permissions and prohibitions foreseen for national parks are applied to the national reserves, with the exceptions contained in this Act.
3. Resources that are found at the national reserves may be used, subject to licensing, under terms to be regulated, provided that it does not infringe the specific objectives that dictated their creation and that it conforms to the management plan.

#### Article 13 **(Areas of use and with cultural and historic importance)**

1. Areas of use and with cultural and historic importance are areas meant for the protection of forests of religious interest and other sites of historical importance and of cultural use, in conformity to the customary norms and practices of the respective local communities.
2. Forest and fauna resources existing in the areas referred to in the previous paragraph may be used according to the customary norms and practices of the respective communities.

### **Chapter III Regimes of Sustainable Exploration of Forest Resources**

#### Article 14 **(Forest exploration regime)**

1. The exploration of the national forest heritage shall observe the following regimes:
  - a) exploration by a simple licence;
  - b) exploration by a forest concession contract.
2. The terms and conditions for the exploration of forest resources in the regimes foreseen in the previous paragraph are established by a decree of the Council of Ministers.

#### Article 15

##### **(Exploration under the simple licence regime)**

1. Exploration under the simple licence regime is subject to limited quantities and deadlines and is exercised, exclusively, by national operators and local communities in the productive and multiple use forests, for commercial, industrial and energetic purposes, observing a previously approved management plan.
2. On the submission of the applications, holders of the licence referred to in the previous paragraph must prove that they have the technical capacity for cutting and transportation, as well as a destination of the forest products in relation to which the application is made.
3. The forest exploration undertaken by the members of the local communities for their own consumption is done in accordance with the customary norms and practices of the respective communities.

#### Article 16

##### **(Exploration under the forest concession contract regime)**

1. Exploration under the forest concession contract regime is that which is carried out by individuals or by companies and by the local communities, in productive or multiple use forests, to supply the processing or energy industry, in compliance with the management plan previously approved by the sector.
2. The holder of the exploration regime referred to in the previous paragraph shall guarantee the processing of the obtained forest products, under the terms to be set forth by a regulation.
3. The holder of the exploration by a concession contract may process forest products extracted by operators of the simple licence regime under the terms of contracts to be signed between them.
4. The concession contract set forth in this Act are subject to the maximum deadline of 50 years that can be extended for equal periods upon the request by the applicant.

Article 17  
**(Forest concession area)**

1. For the determination of the forest concession area, apart from other criteria that may be established by the regulation, the technical processing capacity of the installed forest industry must be taken into account.
2. The allocation of the forest concession area is always preceded by a hearing and renegotiations with the affected local communities in the respective areas, through the local State administration bodies.

Article 18  
**(Rights of the third Parties)**

Forest and fauna exploration for commercial, industrial or energetic purposes, shall safeguard all interests of the third parties from the exploration area, as well as the local communities free access to the same, including the right to use natural resources that they need for their subsistence.

Article 19  
**(Forest exploration for energetic purposes)**

1. Specific diploma establishes the species of forest products destined for the production of firewood and charcoal.
2. Under the terms to be regulated, the holders of the simple licence or concession contract forest exploration regimes, for timber exploration, have preferential treatment in the acquisition of licences for the production of firewood and charcoal, through the exploration by-products.

**Chapter IV**  
**Regimes for the Sustainable Exploration of Fauna Resources.**

Article 20  
**(Wildlife exploration regimes)**

1. The exploration of the wildlife that exists in the country shall observe the following modalities:
  - a) simple licence game hunting;
  - b) game shooting;

c) commercial game hunting.

2. Specific diploma sets annual quotas of wild animal killings, as well as the instruments allowed for the game hunting under the modalities set forth in the previous paragraph.

#### Article 21

#### **(Simple licence game hunting)**

1. Simple licence game hunting is undertaken by national individuals and by the local communities, in the multiple use forests and in the areas of use and with historic and cultural importance, for the purpose of meeting their own consumption needs.
2. Under the terms of the previous paragraph, game licensing for the members of the local communities is done by the local councils according to customary norms and practices and in co-ordination with the sector of tutelage.

#### Article 22

#### **(Game shooting)**

1. Game shooting is undertaken by national or foreign individuals, through cynegetic tourism, in official game reserves and in wildlife farms.
2. National individuals may undertake the type of game shooting referred to in the previous paragraph in the multiple use areas, under the regulatory terms.

#### Article 23

#### **(Commercial game hunting)**

Commercial game hunting is undertaken by individuals or by companies in the wildlife farms, with the aim of obtaining the remains and trophies for commercialisation, through the breeding of wild animals under the terms of this Act and other related la.

#### Article 24

#### **(Tools and means for game hunting)**

The restrictions of game hunting are subject to specific regulation, and the use of means and tools that result in the indiscriminate catching or killing of species, such as burning, explosives, bow, mechanical traps, poisonous substances and automatic fire arms is prohibited.

#### Article 25

#### **(Hunting for the protection of people and goods)**

1. Hunting outside the modalities foreseen in this Act is only allowed when done for protection of people and goods, against factual or imminent attack by wild animals and when it is not possible to chase them away or to capture them.
2. The hunting as contained in this article is promptly carried out, after the learning of such fact, by the State specialised brigades or by the duly authorised private sector or by the local communities.

Article 26  
**(Trophies)**

Specific diploma establishes trophies that are subject to public declaration and those considered as being State property.

**Chapter V**  
**Restocking of Forest and Fauna Resources**

Article 27  
**(Forest plantations for conservation purposes)**

1. The State promotes the repair of degraded areas through forest plantation, preferably in dunes, river basins and fragile ecosystems.
2. When deforestation, fire or any other voluntary acts cause degradation, the offender is obliged to repair of the degraded area under the terms and conditions to be defined by specific regulation, irrespective of other civil and criminal procedures that may apply.
3. The transformation of the degraded areas into other forms of use in the protection areas is not allowed, and they must be restored to their original condition.

Article 28  
**(Forest plantations for commercial, industrial and energetic purposes)**

1. The State promotes the development of forest plantations for commercial, industrial or energetic purposes, according to the ecological characteristics of each area under terms to be regulated.
2. Under the terms of this Act, the plantation of forest species undertaken by any individual or company, benefits from special incentives, to be defined by a specific diploma.

Article 29  
**(Wildlife restocking)**

1. The State promotes wildlife restocking according to the previously approved management plans and in compliance with the law on this matter.
2. The person who, in any way whatsoever causes the degradation of wildlife is obliged to undertake the restocking of the affected species under the terms and conditions to be defined by specific diploma, irrespective of other sanctions that may be applicable.
3. Under the terms of this Act, the wildlife restocking activity undertaken by any individual or company benefits from special incentives, to be defined by a specific diploma.

Article 30  
**(Wild animal breeding and exploration)**

1. The breeding and exploration of wild animals shall be done in properly fenced areas, in compliance with the approved management plan.
2. A specific diploma defines the terms and conditions for breeding and exploring animals as set forth in the previous paragraph.

**Chapter VI**  
**Management of Forest and Fauna Resources**

Article 31  
**(Participatory Management)**

1. Local resources management councils constituted by the representatives of the local communities, the private sector, associations and local State authorities with the aim of protecting, conserving and the promotion of sustainable use of forest and fauna resources are hereby created.
2. The attributions and competencies of the local councils set forth in the previous paragraph are defined by a decree of the Council of Ministers.
3. The management shall ensure the participation of the local communities in the exploration of forest and fauna resources and in the benefits resulting from such use.

Article 32  
**(Closed seasons)**

The Council of Ministers establishes the general and special closed seasons foreseen in this Act.

Article 33  
**(Delegation of power)**

The State may delegate the power of forest and fauna resources management, including the objectives of restocking fauna and forest species, to the local communities, associations or to the private sector, without prejudice to the respective inspection by competent entities.

Article 34  
**(Obligation of permission)**

The permissions for the exploration, commercialisation, use, as well as the transportation of fauna and forest products by land, fluvial, maritime or air, under the terms of this Act and other applicable Law are compulsory, except when so provided under the terms of the law.

Article 35  
**(Fees)**

1. Fees for the access and forest and fauna resources use, as well as the exercise of contemplative tourism in the parks and national reserves are owed to the State.
2. The values of the fees referred to in previous paragraph, as well as for the issuing of activity licence, transit passes, certificates and other permissions, are fixed by the decree of the Council of Ministers.
3. In the use of forest and fauna resources in their respective areas, the local communities are exempted from the payment of fees.
4. An additional fee for the respective forest and fauna restocking is owed, irrespective of the fee for the fauna and forest exploration licence.
5. A specific diploma establishes the percentages of the values resulting from the fauna and forest exploration fees, for the benefit of the resident local communities in the respective exploration areas.
6. It is incumbent upon the Council of Ministers to adjust from time to time the fees.

Article 36  
**(Law enforcement instruments)**

1. The fundamental instruments for the enforcement of this Act are as follows:

- a) National level institutional, technical and scientific co-operation agreements;
- b) international treaties and conventions;
- c) concession contracts and activity permissions, such as licences, transit passes and certificates;
- d) environmental impact assessment;
- e) forest and wildlife development fund;
- f) specific regulations and complementary Law ;
- g) forest and fauna inventories;
- h) lists of the flora and fauna species;
- i) compensation and environment damage restoration measures;
- j) management plan;
- k) burning prevention programme;
- l) forest and fauna zoning;
- m) national forest and wildlife programme.

## **Chapter VII Inspection**

### **Article 37 (Inspection work)**

1. The Council of Ministers has the responsibility to guarantee the forest and wildlife inspection, with the aim of monitoring, direct and discipline conservation, use and management of fauna and forest resources, under the terms to be regulated.
2. All citizens, especially the local resources management councils, as well as the holders of licences, shall collaborate in the exercise of the vigilance necessary to protect the fauna and forest resources, communicating the offences that come to their knowledge to the nearest authority.
3. In the exercises of their functions, the forest and wildlife inspectors shall use properly identified uniforms and they shall be entitled to carry and use firearms and other equipment to be defined by a specific diploma.

4. The forest and fauna inspection is exercised by forest and wildlife inspectors, sworn in inspectors and by the community agents in the terms and conditions to be defined by a specific diploma.
5. The seizure by the forest and wildlife inspectors, of the forest and wildlife products and of the instruments used in offences is compulsory.
6. For the effects of the previous paragraph, the vehicles and other means used in the illegal transportation of fauna and forest resources are considered as being instruments.
7. The forest and wildlife inspector, sworn in inspectors and the community agents, whenever necessary, may request assistance from the nearest authority and police force, so as to guarantee the exercise of their functions.

Article 38  
**(Check points)**

1. Fixed and mobile points for the forest and fauna inspection properly identified for the verification of forest and fauna licences, are hereby created.
2. People and vehicle have the obligation to stop at forest and fauna check points, whenever they are required to do so by the forest and wildlife inspectors, sworn in inspectors or by the community agents.

**Chapter VIII**  
**Offences and Penalties**

Article 39  
**(General norms)**

1. The offences foreseen in this Act are punishable by fine and by the compulsory restoration and by compensation measures for the damages, irrespective of other sanctions that may be applicable.

2. It is incumbent upon the Council of Ministers to review periodically the fines foreseen in this Act.
3. The non-voluntary payment of fine binds the offender to the consequences foreseen in the penal Law, in the jurisdiction where the offence was committed, irrespective of other established legal procedures.
4. The values resulting from the fines of the offences to the forest and fauna Law meant to benefit the various stakeholders involved in the inspection and control of the forest and fauna resources are established by a specific diploma
5. For the effects of the previous paragraph, the forest and wildlife inspectors, the community agents and the local communities that have participated in the respective offence process and in general all citizens who denounced the offence, are considered as being stakeholders involved in the process of inspection and control.

Article 40  
**(Forest burning crime)**

Anyone who, voluntarily, sets fire and thus partially or totally destroys crops, forests, woods or a grove of trees, shall be condemned to an imprisonment sentence of up to one year and to the corresponding fine.

Article 41  
**(Forest and wildlife offences)**

1. The following facts constitute offences punished by a fine of 2,000,000.00 MT to 100,000,000.00 MT, :
  - a) Undertaking of any act of forest exploration without permission, or without compliance to the exploration conditions;
  - b) practice of any act that disrupt or undermine the wildlife in the protected areas;
  - c) hunting without licence or without compliance to the legally established the conditions;
  - d) importing or exporting of forest or wildlife resources without licence, or without compliance to the conditions set forth by the Law;
  - e) abandoning forest and fauna products for which a licence has been issued.
2. The following facts constitute offences punishable with a fine of 1,000,000.00 MT to 20,000,000.00 MT:

- a) Unauthorised storage, transportation or commercialisation of forest or wildlife resources, or without compliance to the legally established conditions;
  - b) The acquisition of fauna or forest resources without having documents proving that the seller and the transporter were duly authorised.
3. If the offence is against a rare or endangered species of flora and fauna, or others the exploration of which are prohibited, the applicable fine shall be ten times more the maximum fine foreseen in this article, irrespective of others sanctions that may be applicable.

Article 42  
**(Aggravating and attenuating circumstances)**

1. Apart from others contained in the general Law, the following constitute aggravating circumstances in the calculation of fines:
  - a) to commit the offence in the protection areas;
  - b) to commit the offence during the closed season;
  - c) to commit the offence against the species of fauna and flora declared by the Law to be rare, endangered or in the risk of extinction,
  - d) when the offender is a wildlife inspector, a sworn in inspector, a community agent, administrative, police, customs or maritime authorities, or any similar agent;
  - e) to commit the offence during the night, on Sundays or holidays;
  - f) to use violence, threat or, by any means resist inspection work;
  - g) when the offender or accomplice holds a forest or fauna licence;
  - h) to use prohibited practices and instruments;
  - i) to commit the offence in organised groups;
2. Apart from others established in the general Law, the following constitute attenuating circumstances in the calculation of fines:
  - a) being a primary offender;
  - b) in case the offender, spontaneously, looks for forest and wildlife inspectors to, voluntarily, report the damage;
  - c) in case the offender is unaware of the consequences of his/her act, taking into account his/her precedence, education level, socio-economic conditions, customs of the region and his/her place of residence.

Article 43  
**(Accomplice responsibility)**

The following shall be considered accomplices of the offence:

- a) the offence beneficiary;
- b) the person who facilitates or takes part in the offence;
- c) the forest and wildlife inspector, sworn in inspectors and the community agent who shall not take steps foreseen in this Act and its regulation, as well as those who have the legal obligation to collaborate in the vigilance exercise, and fail to do so.

Article 44  
**(Accessory penalties)**

The following accessory penalties result from the application of the fine penalties foreseen in this Act:

- a) reverting, in favour of the State, of the forest and fauna products and of the instruments used to commit the offence;
- b) seizure and cancellation of the permissions issued in favour of the offender;
- c) partial or total suspension of the activities which caused the offence;
- d) prohibition of the issuing of new permissions for a period of one year.

Article 45  
**(Destination of the goods seized)**

Under the terms of this Act, the products, objects and instruments seized and declared lost in favour of the State have the following destination:

- a) alienation of the products in public auction, except when otherwise provided for under the terms of this Act;

- b) donation of perishables products to non-profit organisations and social institutions, after the detailed recording in the appropriate seizure documents;
- c) re-routing of the living specimen of the flora and wildlife to their areas of origin, or to the nearest protection areas;
- d) restitution of the instruments to the primary offender, as long as they are not prohibited, and following the payment of the respective fine and after having served other sanctions and legal obligations.

### **Final Provisions**

#### Article 46 **(Preceding law)**

Paragraph 2 of article 464 of the Penal Code, as well as other legal provisions that are contrary to this Act are hereby revoked.

#### Article 47 **(Regulation)**

The Council of Ministers shall adopt the necessary regulatory measures for the implementation of this Act.

#### Article 48 **(Entry into force)**

This Act shall enter into force ninety days after its publication.

Passed by the Assembly of the Republic, on 14<sup>th</sup> May 1999.

The President of the Assembly of the Republic

Eduardo Joaquim Mulémbwè

Assented on 7 July 1999.

Publish

The President of the Republic

Joaquim Alberto Chissano

