Wildlife Legislation in Sub-Saharan Africa: Criminal Offences

Gareth Mauck
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Overview

This research project was commissioned by the Conservation Action Trust (CAT) in order to provide an easily usable summary of Wildlife Legislation and related penalties in specific Sub-Saharan African countries for the use of researchers, NGO’s and writers.

The project was undertaken by Gareth Mauck.

CAT required a summary of all wildlife legislation dealing with poaching, trade and trafficking in the following countries: Angola, Botswana, Kenya, Malawi, Mozambique, Namibia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe.

- All countries surveyed are members of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and have therefore agreed to comply with CITES requirements.

- All countries provide for wildlife offences.

- Few countries provide for stringent incarceration penalties for wildlife crimes and penalties are accordingly inadequate deterrents, although a number of countries do provide for severe fines.

- Most countries only provide for maximum penalties for wildlife crime and fail to provide for minimum penalties.

- Generally little guidance is given to the relevant judiciaries regarding sentencing.

- Definitions of wildlife crimes vary widely creating legal loopholes.

- The line between hunting and poaching is unclear in a number of countries, causing confusion.

- The penalties vary widely across the countries surveyed.

- Most but not all countries have adequate financial crimes, penalties and forfeiture procedures which apply to wildlife crime.
Introduction:

There is no doubt that Sub-Saharan Africa faces great challenges in the conservation of wild animals, especially in relation to big game such as elephant and rhinoceros. One important part of the solution to this problem is the development of environmental, particularly wildlife, laws which are effective in preventing, deterring and punishing wildlife offences such as; illegal hunting, illegal trafficking, illegal trade, illegal consumption, illegal processing and consumption.¹ In addition to this it is important that a country makes use of ancillary legislation dealing with finance, money laundering and tax, to deter/punish those who attempt benefit from the proceeds of wildlife crime.

If we are to better understand our shortfalls in wildlife management we must first assess the legislation dealing with this topic. Accordingly, this research piece is an overview of wildlife laws and policies in eleven Sub-Sahara African countries; Angola, Botswana, Kenya, Malawi, Mozambique, Namibia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe. For each of these countries a list of relevant laws has been complied, this is further refined into those which impose criminal sanction. The definitions and penalties of relevant offences are stated below each legislative piece, and where possibly these provisions are summarised into minimum and maximum offences. Lastly this overview deals with some of the broad financial provisions of each country which may have an influence on wildlife crime.

Although this study not does not comprehensively assess the nuances of each countries legal system and its ability to implement laws, it does provide useful insight into the status of wildlife law in Sub-Saharan Africa; particularly criminal sanctions used to deter wildlife crime. All of the aforementioned countries do provide for wildlife offences, however, there is great variation in offences and penalties used by each country; with few countries providing for stringent penalties that would be enough to deter potential wildlife criminals. Another notable problem is that many countries only provide for maximum sentences in respect of a particular crime; these sanctions would have a greater deterrent effect if they prescribed harsher minimum sentences. Most countries to have adequate financial legislation in place which deals with the forfeiture of proceeds of wildlife crime. However, there are a number of countries whose financial forfeiture provisions only apply to ‘serious crimes’ as defined in their legislation. This is problematic because not every wildlife crime will fall under the definition of a ‘serious crime’, meaning that the forfeiture procedures will not apply.

Lastly it is also important to note that all of the aforementioned countries are members of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.² Accordingly, each country has committed itself to cease trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.³ These countries should, in accordance with their international commitments to CITES, provide adequate offences and penalties which prohibit/prevent the trade in listed animals. However, from an assessment of the various trade/import/export laws, many countries do not have adequate criminal sanctions which reflect the purposes of CITES.

## Overview of Sub-Saharan Wildlife Legislation and Penalties

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<tbody>
<tr>
<td>Angola</td>
<td>Entry into force: 13/12/2013</td>
<td>Various hunting offences created: Penalties in relation to the killing of elephants include a total fine of AOA333 450 (USD3747)</td>
<td>Non Found</td>
<td>Illegal sale and commercial processing of Ivory, skins, meat, rhino horn and other products is prohibited.</td>
<td>Non Found</td>
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<td>Botswana</td>
<td>Entry into force: 12/02/1978</td>
<td>Various Hunting offences created with penalties ranging between; fines of P500 - P 100 000, and; Prison sentences between 6 months and 7 years (Max sentences)</td>
<td>Import/Export related offences: penalties ranging from P5000 to P100 000, and imprisonment between 5 - 10 Years</td>
<td>Trophy dealing: Penalties include P5000 fine and imprisonment not exceeding 5 years Sales of Rhino Horn: Liable to a fine of P100 000 and to imprisonment for 15 years</td>
<td>Various Financial offences, including; Money laundering, Corruption, and tax evasion. Penalties range from fines of P500 000 - P10000. And imprisonment between 3 and 10 years</td>
<td>NA</td>
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<tr>
<td>Country</td>
<td>Entry into force</td>
<td>Various hunting offences created: Penalties range between; fines of 5000 shillings and 40 000 shillings.</td>
<td>Kenyan law does provide for various export and import offences</td>
<td>Provides for; illegal dealing, illegal sale and dealing govt trophy.</td>
<td>Various Applicable Financial offences, including; Corruption, Tax evasion, fraud and Money Laundering. Penalties: fines of 100 to 10 million shillings. And imprisonment of up to 7 years in prison</td>
<td>NA</td>
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<tr>
<td>Kenya</td>
<td>13/03/1979</td>
<td>Various hunting offences created: Penalties range between; fines of 5000 shillings and 40 000 shillings. Imprisonment from; 6 months to 10 years (In most cases both a fine and a prison sentence may be given)</td>
<td>Penalties: See hunting penalties</td>
<td>Penalties: fines between 10 000 - 20 000 shillings. Imprisonment between 1 - 5 years (Max Penalties)</td>
<td>NA</td>
<td></td>
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<tr>
<td>Malawi</td>
<td>13/03/1979</td>
<td>Various hunting offences created: Penalties range from; fines of K50 to K10 000, and imprisonment from a maximum of 1 year to a maximum of 5 years.</td>
<td>Various import and export related crimes created: Penalties range from; fines between a minimum of K50 to K10 000, and imprisonment between 1 and 5 years</td>
<td>Various sale and transfer related crimes created: Penalties range from; fines between a minimum of K50 to K10 000, and imprisonment between 1 and 5 years (this includes illegal Possession)</td>
<td>Various Applicable Financial; Penalties range from fines between K10000 and K 2 million. Imprisonment for up to 10 years</td>
<td>General Offences: First offence; Fine - K200 to K500. Imprisonment - 3 months. Second offence; Fine - K500 to K10 000</td>
</tr>
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<td>Mozambique</td>
<td>23/06/1981</td>
<td>Various hunting related offences: fines ranging from 2 million MT to 100 million MT.</td>
<td>Import/Export offences have been est.: Fines range from 2 million MTto 100 Million Mt. If in respect of animals in danger of extinction: fine will be ten times the maximum amount</td>
<td>Regulates illegal movement of animal parts: Penalties: See Export/Import</td>
<td>Various Applicable Financial Penalties; Penalties range from fines up to one year and imprisonment between 2 and 8 years</td>
<td>NA</td>
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<tr>
<td>Country</td>
<td>Entry into force</td>
<td>Various hunting offences: Penalties range from; fines between R500 and R200 000; and imprisonment between 6 months and 20 years.</td>
<td>Import/Export: provisions made for offences but no specific penalties given: see general penalties</td>
<td>Illegal sale: provision made for offences but no specific penalties given: see general penalties</td>
<td>Various Applicable Financial offence; Penalties range from fines between R10 000 to N$100 million, and imprisonment between 2 to 30 years.</td>
<td>General Penalties: 1st conviction: fine not exceeding R250 and imprisonment not exceeding 3 months. 2nd conviction: fine - R500. Imprisonment not exceeding 6 months (or both)</td>
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<td>Namibia</td>
<td>Entry into force: 18/03/1991</td>
<td>Various hunting offences: Penalties range from; fines between R500 and R200 000; and imprisonment between 6 months and 20 years.</td>
<td>Import/Export: provisions made for offences but no specific penalties given: see general penalties</td>
<td>Illegal sale: provision made for offences but no specific penalties given: see general penalties</td>
<td>Various Applicable Financial offence; Penalties range from fines between R10 000 to N$100 million, and imprisonment between 2 to 30 years.</td>
<td>General Penalties: 1st conviction: fine not exceeding R250 and imprisonment not exceeding 3 months. 2nd conviction: fine - R500. Imprisonment not exceeding 6 months (or both)</td>
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<tr>
<td>South Africa</td>
<td>Entry into force: 13/10/1975</td>
<td>Various hunting offences: Penalties: fine between R5 Million and R10 million. Imprisonment between 5 Years and 10 years (max sentences) Both can be used</td>
<td>Various import /export offences. Fines: between R5million and R10 million. Imprisonment between 5 and 10 years (max sentences) Both may be used</td>
<td>Illegal sale is an offence: Penalties: see Hunting and import export.</td>
<td>Various Applicable Financial offences; Penalties range from fines and imprisonment between 3 years and life.</td>
<td>General Penalties: Imprisonment between 5 and 10 years. Fine between R5million and R10million. (Max sentences)</td>
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<tr>
<td>Tanzania</td>
<td>Entry into force: 27/02/1980</td>
<td>Various hunting offences: Penalties: fines between 100 000 shillings and 1 million shillings, and imprisonment between 1 month and 5 years.</td>
<td>Import/Export offences have been provided for: Fines not less than twice the value of the trophy or to imprisonment for a term of not less than two years but not exceeding five years or to both.</td>
<td>Various sale offences: fines up to ten times (not less than 2 times) the value of the trophy or to imprisonment for a term of up to 30 years (not less than 3)</td>
<td>Various Applicable Financial offences; Penalties range from 50 000 shillings to 1 million shillings. Imprisonment between 1 and 10 years.</td>
<td>General Provisions: fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.</td>
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<tr>
<td>Country</td>
<td>Entry into force:</td>
<td>Various hunting offences:</td>
<td>Export/Import/ Possession: fine of not less than ten million shillings or to imprisonment for a term or not less than seven years, and in any case the final shall not be less than the value of the specimen involved</td>
<td>Illegal sale and transfer is dealt with: Penalties: see hunting penalties.</td>
<td>Money Laundering :liable to imprisonment for a period not exceeding 15 years or a fine not exceeding Shs2 billion or both</td>
<td>NA</td>
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<td>Uganda</td>
<td>16/10/1991</td>
<td>Various hunting offences: Fine of not less than 1million shillings or to imprisonment of not more than 5 years or both, and in any case the fine shall not be less than the value of the specimen involved</td>
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<td>Zambia</td>
<td>22/02/1981</td>
<td>Various hunting offences: Hunting elephant: imprisonment at least 5 years, but no more than 10.</td>
<td>Various trafficking offences: Fine not exceeding 70 000 penalty units, imprisonment between 5 and 20 years. Protected Animals/National Park: No option of fine</td>
<td>Various Sale offences created: See penalties for Trafficking (same apply here)</td>
<td>NA</td>
<td>General Penalties: 1st offence: fine not less than 5000 penalty units but not exceeding 50 000 penalty units or imprisonment not exceeding 7 years, or both; (increase on subsequent offences)</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>17/08/1981</td>
<td>Various hunting offences: Fines between level 7 and 14. Imprisonment between 2 years and 20 years (max, depending on offence)</td>
<td>Unlawful possession of, or trading in, ivory or any trophy of a rhinoceros or of any other specially protected animal shall be liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment.</td>
<td>Various Sale offences: Penalties: liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment</td>
<td>Various Applicable Financial Penalties; Penalties range from fines not exceeding level 10 or 5 years imprisonment.</td>
<td>Possession of a State Trophy: liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment</td>
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Wildlife Legislation and Policy per Country


The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).

   Yes
   Accession: 2/10/2013
   Entry into force: 13/12/2013.

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.

   The following laws apply to wildlife offences in Angola;
   - Decree No. 40.040, Ruling on the Protection of Land, Flora and Fauna
   - Decree 2:873 of 1957 Hunting Regulation
   - Decree 36/99 of 1999
   - Decree No 37/99

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

   The following laws impose criminal liability for wildlife offences in Angola;
   - Decree No. 40.040, Ruling on the Protection of Land, Flora and Fauna
   - Decree 2:873 of 1957 Hunting Regulation

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

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The definition of each wildlife offence is stated below each applicable piece of legislation/regulation:

**Decree No. 40.040, Ruling on the Protection of Land, Flora and Fauna**

In relation to the protection of wild animals this decree provides for two annexes; annexure one lists those animals which are not permitted to be hunted without a licence, and; annexure two lists species that may be hunted. These listings essentially prohibit the hunting of many wild animals including:

- Elephant
- Leopard
- Rhino
- Zebra
- Etc.

**Article 133:**

Any persons who breach the code in this document will be liable to a fine not exceeding 5 000$.

**Decree 2:873 of 1957 Hunting Regulation**

This piece of legislation aimed to regulate the hunting of wildlife within the framework of Decree 40:040 of 1955. The decree provides for various classes of hunting licences, including:

- Hunting for local subsistence
- Hunting for agriculture
- Hunting for sport

The decree also provides for annexure 3 (in relation to the annexure 1 and 2 under Decree 40:040) which provides for a list of animals which require a special/supplementary hunting licence.

Decree 2:873 of 1957 also provided legislation for the possession and trade of wildlife products, including those from elephants, in the following provisions:

**Article 86:** whoever kills an elephant, hippo or rhinoceros should inform the authorities within 30 days of the animal being killed. The same applies for all animals listed in Annex 1.

In addition to this

- The person should provide the authorities with the hunting permit when reporting the animal that has been killed.
- If the authorities confirm the killing is legal they shall issue the hunter with a permit for the trophy, skin and meat.
- Each tusk or horn shall be issued with a tag that shall have its own number, the date and an official stamp.
- Each time an animal is reported killed, the hunter shall be charged a fee as set out in Annex 13.

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If local authorities do not think the animal was killed legally, they have the right to confiscate the animal while they investigate.

The hunter can only appeal to the Governor within 30 days of confiscation.

**Article 90:** No one or company can dedicate its activities to the commercialisation of ivory, skins, rhino horn, meat and other hunting related products without having authorisation based on Model A. Authorisation does not replace any other conditions or requirements of the Decree.

**Article 91:** Companies involved in the commercialization of wildlife products are required to keep a registration book with data such as the names of hunters, hunting licence numbers, dates, species, etc.

**Article 92:** No one is allowed to commercially sell ivory or rhino horn unless specified under Article 86 and still require the correct documentation. Unless the person who sells the ivory or rhino horn is a company that has authorization in terms of Article 90 then the correct permit is required. If buying from a company then the correct authorization should be acquired.

Decree 2:873 of 1957 has been updated several times to change the fee structure and, in some cases, to adjust the status of certain species. Under the most current legislation, Decreto executive conjunto 2 n.o 36/99 of 27 January 1999, both subspecies of elephant are maintained in Annex 1 delineating species for which hunting is prohibited. The fine for someone caught illegally killing an elephant is UCF31740. Further,

**Article 3:**

There is an additional fee of UCF75 for killing any animal listed in Annex 1, and Article 20 states that the fine should be multiplied by a variety of factors, which for elephant is a factor of five. Thus, the fine for someone illegally killing an elephant in Angola at the time of this writing is:

- **Specific fine for killing an elephant** - UCF1740 (AOA66 120, USD740)
- **Additional fine according to Article 3** - UCF75 (AOA2850, USD32)
- **Multiply the fine by 5** (Article 20) - UCF8700 (AOA330 600, USD3715)
- **Total** - UCF8775 (AOA333 450, USD3747)

5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

Below are penalties which may be imposed under law above:

- **Specific fine for killing an elephant** - UCF1740 (AOA66 120, USD740)
- **Additional fine according to Article 3** - UCF75 (AOA2850, USD32)
- **Multiply the fine by 5** (Article 20) - UCF8700 (AOA330 600, USD3715)
- **Total** - UCF8775 (AOA333 450, USD3747)


The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).

Yes
Ratification: 14/11/1977
Entry into force: 12/02/1978.8

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.

The following laws apply to wildlife offences in Botswana;

- Wildlife Conservation and National Parks (Lions) (Killing Restriction) Order (22nd April, 2005)
- Wildlife Conservation and National Parks (Cheetahs) (Killing Suspension) Order (22nd April, 2005)
- Wildlife Conservation and National Parks (Hunting and Licensing) Regulations (Section 92) (10th August, 2001)
- Wildlife Conservation (Possession and Ownership of Elephant Tusks or Ivory) Regulations (Section 92) (15th March, 1999)
- National Parks And Game Reserves Regulations (Under Section 92) (2000)
- Wildlife Conservation And National Parks Act (1992)
- Controlled Hunting Areas (Fees) Order 1995

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

The following laws impose criminal liability for wildlife offences in Botswana;

- Wildlife Conservation and National Parks (Lions) (Killing Restriction) Order (22nd April, 2005)
- Wildlife Conservation and National Parks (Cheetahs) (Killing Suspension) Order (10th August 2005)
- Wildlife Conservation and National Parks (Hunting and Licensing) Regulations (Section 92) (10th August, 2001)
- Wildlife Conservation (Possession and Ownership of Elephant Tusks or Ivory) Regulations (Section 92) (15th March, 1999)

8 http://www.cites.org/eng/disc/parties/alphabet.php
4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

The definition of each wildlife offence is stated below each applicable piece of legislation/regulation:

**Wildlife Conservation and National Parks (Lions) (Killing Restriction) Order (2005)**

**Order 3 (2)** A person who kills a lion shall, within seven days of the event, make a report thereof to the nearest wildlife office or police station.

(3) A person who contravenes a provision of this regulation commits an offence and is liable to a fine not exceeding P1,000 and to imprisonment for a term not exceeding one year.

**Order 7: Offences and penalties**

A person who contravenes any provision of this Order commits an offence and is liable to a fine not exceeding P1,000 and to imprisonment for a term not exceeding one year.

**Wildlife Conservation and National Parks (Cheetahs) (Killing Suspension) Order (2005)**

**Order 4: Offences and penalties**

A person who kills a cheetah commits an offence and is liable to a fine not exceeding P1,000 and to imprisonment for a term not exceeding one year.

**Wildlife Conservation and National Parks (Hunting and Licensing) Regulations (Section 92) (10th August, 2001)**

**Regulation 3:** (1) Subject to these Regulations, no person shall hunt a game animal listed under the Seventh Schedule of the Act, unless he has been issued with a licence as specified under sub regulation (2) authorizing him to hunt that game animal.

**Regulation 5:** Any person who contravenes the Regulations relating to hunting licence cards will be guilty of an offence.

**Regulation 7:** Any person who contravenes the Regulations relating to game licences will be guilty of an offence.

**Regulation 8 and 9:** Any person who contravenes the regulations relating to small and special game licences will be guilty of an offence.

**Regulation 10:** Any person who contravenes the regulations relating to hunting permits will be guilty of an offence.

**Regulation 24:** Any person who is guilty of an offence under Part VIII, or fails to comply with a requirement made of him under this Part, shall be guilty of an offence and shall be liable to a fine not exceeding P 1 000 or to imprisonment for a term not exceeding 1 year or both.

**Regulation 34: Import, export, re-export and transit of game animals and trophies**

(1) No person shall import, export, re-export or acquire transit rights for game animals without an import, export, re-export and transit permit respectively.
(2) An application for an import, export, re-export or transit permit for game animals not listed under the Fifth Schedule of the Act shall be made in the form set out in the Twenty Sixth Schedule.

(3) An import, export, re-export and transit permit for game animals and trophies not listed under the Fifth Schedule of the Act shall be in the form set out in the Twenty Seventh Schedule.

(4) An import, export, re-export and transit permit for game animals and trophies specified in the Fifth Schedule of the Act, shall be in the form set out in the Twenty Eighth Schedule.

(5) If an import, export, re-export or transit permit is unused for whatever reason it shall be surrendered to the issuing office before another one is issued.

(6) A permit applied for under this regulation may be issued on the payment of an appropriate fee specified in the Twenty-Ninth Schedule.

(7) A permit issued under this regulation shall be subject to such terms, conditions and requirements as may be endorsed in the permit.

(8) Any person who contravenes any provision of this regulation shall be guilty of an Offence.

Regulation 35: Trophy dealer's licence
(1) No person shall be a trophy dealer without the trophy dealer's licence.

(2) An application for a trophy dealer's licence shall be made in the form set out in the Thirtieth Schedule.

(3) The trophy dealer's licence shall be in the form set out in the Thirty-First Schedule and shall be issued on payment of the appropriate fee specified in the Thirty-Second Schedule.

(4) Upon submission of an application under this regulation and before the licence is issued, the premises specified in the application form shall be inspected by a wildlife officer to ensure adequate provision for the storage of trophies and no licence shall be issued if the premises are deemed unsuitable for this purpose.

(5) The trophy dealer's licence shall be for use in specific premises named in the licence and shall not be valid for use in any other premises.

(6) A trophy dealer's licence shall be valid for a period of one year from the date on which it is issued.

(7) A licensed trophy dealer shall keep a register in the form set out in the Thirty Third Schedule.

(8) A licensed trophy dealer shall return the trophy dealer's licence and the completed register to the nearest wildlife office within 14 days of the expiry of that trophy dealer's licence.

(9) A licensed trophy dealer may accept trophies from any other person where he is satisfied that the trophy was acquired under the conditions of a valid permit or licence, and where there is no valid licence; the trophy dealer shall seize the trophy and inform the nearest wildlife officer.

(10) Any person who contravenes any provision of this regulation shall be guilty of an offence.

Regulation 37: Anyone who hunts using a bow in contravention of this regulation will be guilty of an offence

Regulation 38: Anyone who hunts using bait in contravention of this regulation will be guilty of an offence.

Regulation 39: Discovery and transport of elephant tusks
(1) An elephant tusk obtained from activities such as hunting, culling, confiscation, natural mortality or any other cause in any area in Botswana weighing 11kg or less shall be prescribed a Government trophy and a licensing officer shall not register and return such tusk to the person who produced it.

(2) A person who discovers an elephant tusk referred to in subregulation (1) shall present it to the licensing officer to mark it with a temporary ivory registration label provided the weight of the elephant tusk is not 11kg or less, with exception of tusks obtained from an elephant hunted as a problem animal.

(3) The temporary ivory registration label shall be in the form set out in the Thirty Seventh Schedule.

(4) A person who discovers an elephant tusk or any part thereof shall deliver it to the nearest DWNP district office within seven days of that discovery.
(5) An elephant tusk or any part thereof shall have the temporary registration label removed within 24 hours of its delivery, marked with an indelible ink or punch dyes with a code number at the lip mark of the elephant tusk consisting of the country ISO code "BW" followed by the station code of the District Office where the elephant tusk or part thereof was found, the serial number, year and weight.

(6) An ivory registration certificate in the form set out in the Thirty Eighth Schedule shall be completed and affixed to the elephant tusk or any part thereof on top of the code number and the temporary ivory registration label shall be filed at the DWNP district office.

(7) The particulars of the ivory registration certificate shall be entered into the DWNP district office in the form set out in the Thirty Ninth Schedule.

**Regulation 40: Transfer of ivory**

(1) Ivory shall be transferred on a monthly basis from district offices to the national ivory store.

(2) Such transfers of ivory referred to in subregulation (1) shall only be made if a receipt and issue voucher is used and the elephant tusks despatched shall be recorded.

(3) At the national ivory store the details of the elephant tusks or any part thereof shall be entered into the national ivory register in the form set out in the Fortieth Schedule.

(4) After complying with subregulation (3), the elephant tusks or any part thereof shall be securely locked into the storage.

**Regulation 41: Ownership of ivory**

The Director may, if he is satisfied after such enquiry as he may consider necessary, return the elephant tusks to the person producing them together with a certificate of ownership.

**Regulation 44: Offences and penalties**

Any person guilty of an offence under these Regulations for which no penalty is provided shall be liable on first conviction to a fine not exceeding P5,000 or to imprisonment for a term not exceeding five years and on the second and subsequent convictions to a fine of P1,000 and to imprisonment for a term not exceeding one year or both.

**National Parks and Game Reserves Regulations (Under Section 92) (1st April, 2000)**

**Regulations 6 – 24:** Any person who contravenes Part IV (Regulations relating to the facilities of National Parks and Game Reserves will be guilty of an offence.

**Regulations 25 – 33:** Any person who contravenes Part V (Regulations relating to travel in a National Park or Game Reserve) will be guilty of an offence. These regulations may be useful for convicting criminals who use vehicles and aircraft for hunting wild animals in game parks.

**Regulation 37: General conduct (Part VII)**

(1) No person shall within a national park or game reserve-

(a) remove or destroy any flora, fauna or avifauna, or any part thereof either living or dead, or in any way hunt, harass, disturb or molest any living thing except under regulations 18(3), 30 and 38 or with the written authorisation of the Director

**Regulation 42:** A person who contravenes any provisions of this Part [Part VII] shall be guilty of an offence and liable to a fine not exceeding P10 000 or to imprisonment for a period not exceeding six months in default of payment.
Regulation 43: Nuisance or misbehaviour (Part IX)
(1) A person who behaves in such a manner as to create a nuisance or acts in any way detrimental to the interests of the national park or game reserve or commits an offence under these regulations shall comply with any reasonable direction, including a direction to leave the national park or game reserve, as may be given by a wildlife officer.

Regulation 49: General penalty
Any person who is guilty of an offence under these Regulations, the penalty for which has not been stipulated, shall be liable to a fine not exceeding P10 000 or to imprisonment for a period not exceeding seven years or to both.

Wildlife Conservation and National Parks Act (1992)

Section 11: Offences in a national park
(1) Any person who kills, hunts or captures any animal in a national park shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P10 000 and to imprisonment for 7 years.
(2) Any person who contravenes or fails to comply with any other provision of section 7(1), 8(1) or 10 shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P2 000 and to imprisonment for 2 years.

Section 12(3) In any game reserve or sanctuary, no person shall hunt or capture any animal, or species or variety, specimen or sex of any animal specified in relation to such game reserve or sanctuary, except only under and in accordance with the terms and conditions of a permit issued under section 39, and any person who contravenes the provisions of this section shall be guilty of an offence and, without derogation from his liability under any other provision of this Act, shall be liable to a fine of P5 000 and to imprisonment for 5 years.

Section 13(3) Within a private game reserve, no person shall hunt or capture any animal or any species or variety of animal which is specified in the order declaring it to be a private game reserve, and any person who contravenes the provisions of this subsection shall be guilty of an offence and, without derogation from his liability under any other provision of this Act, shall be liable to a fine of P5 000 and to imprisonment for 5 years.

Section 16(5) Any person hunting in a controlled hunting area shall, as soon as possible and in any event within 7 days of the completion of such hunting, unless otherwise authorized by a licensing officer and endorsed on his licence, report such completion to a wildlife officer, and any person who fails to comply with the provisions of this subsection shall be guilty of an offence and liable to a fine of P500 and imprisonment for 6 months.

Section 16(6): Any person hunting or capturing any animal in a controlled hunting area without such authority and paying such fee as may be prescribed in accordance with subsection (3), or contrary to the terms of such authority, shall be guilty of an offence and, without derogation from his liability under any other provision of this Act, shall be liable to a fine of P2 000 and to imprisonment for 2 years.

Section 17(2) No person shall, except only under and in accordance with the terms and conditions of a permit issued by the Director under section 39 or section 40, hunt or capture any protected game animal, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P10 000 and to imprisonment for 7 years: Provided that, where the animal in respect of which the offence is committed is a rhinoceros, the offender shall be liable to a fine of P100 000, and to imprisonment for 15 years.

Section 18: Partially protected game animals
The animals specified in Part I of the Seventh Schedule shall be partially protected game animals throughout Botswana, and no person shall, except under and in accordance with the terms and conditions of a licence or permit issued under this Act, hunt or capture any partially protected game animal.

Section 19: Hunting and capturing of animals generally
(1) Except as, or to such extent as may be, specially provided in this Act, no person shall hunt or capture any animal (other than a non-designated invertebrate animal outside of a national park or a game reserve) otherwise than under and in accordance with the terms and conditions of a licence issued, or a permit granted, under this Act: Provided that a citizen of Botswana may hunt any non-designated animal, other than in a national park or a game reserve, for consumption by himself or his dependants, without a licence or permit.

(2) The animals specified in Parts II and III of the Seventh Schedule are animals that may be hunted under and in accordance with the terms and conditions of a licence issued under this Act: Provided that where an area is or areas are specified in relation to a particular animal, that animal may only be hunted in that area or in those areas, as the case may be.

(3) Any person who contravenes the provisions of section 18 or subsection (1) of this section shall be guilty of an offence and shall be liable:
   (a) if the contravention is in respect of a partially protected game animal, to a fine of P5 000 and to imprisonment for 5 years: Provided that where the animal in respect of which the offence is committed is an elephant, the offender shall be liable to a fine of P50 000, and to imprisonment for 10 years;
   (b) if the contravention is in respect of any animal specified in Part II of the Seventh Schedule, to a fine of P2 000 and to imprisonment for 2 years;
   (c) if the contravention is in respect of a bird specified in Part III of the Seventh Schedule, to a fine of P1 000 and to imprisonment for 1 year;
   (d) if the contravention is in respect of any non-designated animal, or in respect of any term or condition of any licence or permit issued to that person, to a fine of P500 and to imprisonment for 6 months.

Section 44: Professional hunters
(1) No person shall act as a professional hunter unless he is in possession of such professional hunter's licence as may be prescribed, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

(6) A professional hunter's licence shall not entitle the holder to shoot at any animal except as provided in section 47, or to prevent the escape of an animal already wounded, and any such licence holder who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

Section 49: Hunting or capturing of animals without permission of land owner or occupier
(1) No person shall enter upon any land for the purpose of hunting or capturing any animal without he written permission of the owner or occupier of such land or unless he is accompanied by such owner or occupier or by the duly appointed representative of such owner or occupier, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for 1 year.

Section 55: Hunting or capturing by night
(1) Subject to the provisions of subsection (2) no person shall hunt or capture any game animal by night or use any dazzling light for the purpose of hunting or capturing any game animal, and any person who contravenes the provisions of this subsection shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P5 000 and to imprisonment for 5 years.
Section 56: Hunting or capturing during closed season
No person shall hunt or capture any game animal during the closed season, and any person who contravenes the provisions of this section shall, without prejudice to his liability to be prosecuted under any other section of this Act, be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years: Provided that the provisions of this section shall not apply to the holder of a valid permit granted under this Act which specifically authorizes the holder thereof to hunt or capture such game animal during the closed season, or to the holder of a special game licence issued under Section 30(2), or to any person acting in accordance with the provisions of section 46(1) or section 47(1).

Section 57: Unlawful methods of hunting
1) Subject to subsections (2) and (3), no person shall-
   (a) Whilst he is in or on any vehicle, aircraft or mechanically propelled vessel, discharge any weapon at or towards any game animal;
   (b) Use any vehicle, aircraft or mechanically propelled vessel in such manner as to drive, stampede or disturb any animal for any purpose;
   (c) Use any vehicle or mechanically propelled vessel for the purpose of capturing any game animal; or
   (d) In any vehicle or mechanically propelled vessel approach nearer than 200 metres to any animal for the purpose of hunting or capturing the animal.

2) Nothing in subsection (1) shall apply to the use of a vehicle, aircraft or mechanically propelled vessel for-
   (a) the hunting or capture of any animal by any person acting in accordance with the provisions of section 46(1) or section 47(1);
   (b) the hunting or capture of any animal by the holder of a valid permit granted under this Act which authorizes the use of a vehicle, aircraft or mechanically propelled vessel in the hunting or capture of such animal; or
   (c) the driving away of any animal from any Government aerodrome or any licensed aerodrome by any person concerned with the maintenance of such aerodrome, or the driving away of any animal from an emergency landing ground by any person when it is necessary so to drive the animal to ensure the safety of any aircraft which is on, or about to land on, or about to take off from such emergency landing ground.

3) Nothing in subsection (1) shall apply to the use of a mechanically propelled vessel for the hunting of any waterfowl specified in Part III of the Seventh Schedule or the hunting or capture of any crocodile or sitatunga.

4) No person shall, for the purpose of hunting or capturing of any animal, drive or surround such animal by means of fire or, for the purpose of such hunting or capturing, cause any grass or bush fire, or use any other method of hunting or capture which the Minister may, by regulations, declare to be unlawful.

5) No person shall, except under and in accordance with the written permission of a licensing officer, use for the purpose of hunting or capturing any animal any immediate means other than a hunting rifle, a shotgun or a dog used subject to such limitations as may be imposed by regulations: Provided that the provisions of this subsection shall not apply to any person acting in accordance with the provisions of section 46(1) or section 47(1), or to the extent that regulations made for the purposes of section 30 provide otherwise in respect of persons hunting in accordance with the provisions of a special game licence.

6) Any person who contravenes the provisions of this section shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P5 000 and to imprisonment for 5 years.

Section 58: Elephant and buffalo hunting
1) No person shall use a Martini Henry or a muzzle loader or any firearm other than a rifle of a calibre not less than 9,3mm or .375 magnum and capable of firing a cordite cartridge, for the purpose of hunting any
elephant or buffalo, and a licence or permit authorizing the hunting of an elephant or a buffalo will only be issued on production by the applicant of an arms certificate or a temporary permit for a rifle which conforms to the requirements of this subsection.

(2) Any person who hunts an elephant or a buffalo with a weapon other than one of a calibre and type specified for such hunting in subsection (1) shall be guilty of an offence and, without prejudice to his liability to any other penalty in respect of any other offence under this Act, shall be liable to a fine of P500 and to imprisonment for 6 months.

Section 62: Export and import of animals, etc.

(1) No person shall, except under and in accordance with the terms and conditions of a permit granted to him by the Director under subsection (3), export from or import into or transport through or re-export from Botswana any animal, or trophy, meat or eggs thereof.

(2) The export, import, transport through and re-export of animals listed under the Appendices to CITES, and any trophy, meat or eggs thereof shall be permitted only in accordance with the provisions of CITES, and before any permit is issued under subsection (3), the Director, as Management Authority in accordance with the terms of CITES, shall require to be satisfied that-

(a) the animal, trophy, meat or eggs has or have been lawfully acquired;
(b) the issue of the permit will not in any way be detrimental to the survival of the species;
(c) where required, the Management Authority of the importing country has granted an import permit in respect of the animal, trophy, meat or eggs; and
(d) in the case of a live animal, all necessary steps have been taken to minimize the risk of injury, cruelty or damage to its health during transport or trans-shipment of the animal to its destination.

(3) Subject to compliance with the provisions of any other written law relating to the export or import of goods, to the provisions of subsections (2) and (4), and to any regulations made or directions given, or terms and conditions imposed by the Minister in respect of certain or specified animals, a licensing officer may, on application being made in such form and on payment of such fee as may be prescribed, grant permits for the export from or import into or re-export from Botswana of any animal, or trophy, meat or eggs thereof.

(4) Where, subject to the provisions of subsection (2), a permit for the export of any elephant tusk is granted, the weight thereof and the distinctive mark and number placed thereon in terms of section 67(2) shall be endorsed on the permit.

(5) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine of P10 000 and to imprisonment for 7 years: Provided that-

(a) where the contravention is in respect of a rhinoceros or any trophy thereof, the penalty shall be a fine of P100 000, and imprisonment for 10 years; or( b) where the contravention is in respect of an elephant or any trophy thereof, the penalty shall be a fine of P50 000, and imprisonment for 10 years.

Section 64: Dealing in trophies

No person shall sell or otherwise deal in, or manufacture any article from, any trophy that has not been lawfully imported into, or which has not been obtained from an animal lawfully killed or captured in, Botswana, and any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years: Provided that where the offence is in respect of a trophy from a rhinoceros or an elephant, the penalties shall be as provided respectively in paragraphs (a) and (b) of the proviso to section 62(5).

Section 67: Killing of elephant and rhinoceros

(1) Any person who kills an elephant shall produce its lower jaw, its tail and its tusks to a licensing officer at such wildlife office as may be prescribed for such purpose, within 7 days immediately after the killing, or within such extended period as the licensing officer may, in any special circumstances, authorize, together with the appropriate licence or permit, and where the licence or permit holder fails to produce any one of such parts, or the licence, the licensing officer may refuse to register the tusks.
(5) Any person who fails to comply with the provisions of subsection (1), or who is found in possession of tusks which have not been registered in accordance with the provisions of subsection (2), shall be guilty of an offence and liable to a fine of P50 000 and to imprisonment for 10 years.

(6) Any person who kills a rhinoceros shall produce the horn thereof to a licensing officer, at such wildlife office as may be prescribed for that purpose, as soon as possible, and in any event within 7 days immediately after the killing, and report the circumstances of the killing, the location and the date and time thereof, and any person who fails to comply with the provisions of this subsection or who is found in possession of a rhinoceros horn which has not been produced in accordance with the provisions of this subsection shall be guilty of an offence and liable to a fine of P100 000 and to imprisonment for 15 years.

Section 68: Ivory or tusks imported into or acquired in Botswana
(1) Any person who imports any ivory or any tusk into Botswana, or who acquires, within Botswana, any ivory, or any tusk, without a certificate of ownership issued under section 67(2) shall, within 7 days of so importing or acquiring it, produce such ivory or tusk to a licensing officer, at such wildlife office as may be prescribed for that purpose, for registration, together with such reasonable proof of the lawful importation or acquisition thereof as the licensing officer may require, and where appropriate the provisions of section 67(2) or (3) shall mutatis mutandis apply in respect thereof: Provided that the provisions of this subsection shall not apply in respect of any tusk or ivory which is imported into Botswana by any museum or scientific or educational institution, or in respect of any ivory which is in such form, or is acquired from such source, as the Minister may, bearing in mind the terms of CITES, by regulations made under this Act, or in any particular case exempt therefrom.

(2) Any person who fails to comply with or contravenes the provisions of subsection (1), or who is found in possession of any tusk or ivory and cannot produce a certificate of ownership issued under section 67(2) therefore, or proof of registration thereof or any reasonable proof of lawful importation or possession thereof, shall be guilty of an offence and liable to a fine of P50 000 and to imprisonment for 10 years.

Section 70 Rhinoceros horn
Any rhinoceros horn shall be a Government trophy and, except only as provided in section 67(6), no person shall have in his possession, transfer or in any way deal in rhinoceros horn, and any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of P100 000 and to imprisonment for 15 years: Provided that the provisions of this section shall not apply in respect of the possession of any duly registered rhinoceros horn by a person who acquired it lawfully prior to the commencement of this Act and who registers such possession with a licensing officer, at such wildlife office as may be prescribed for the purpose, within three months after the commencement of this Act.

Section 75: Forfeitures, etc
(1) Where any person is convicted of an offence under this Act, the court may order, and shall order where the offence is one punishable with a fine of P2 000 or over, that any weapon, trap, animal, vehicle, aircraft or boat used for the purpose of or in connection with the commission of the offence, shall be forfeited to the State.

(2) Where the holder of a licence, permit, authority or permission issued or granted under this Act is convicted of an offence under the Act for which the penalty prescribed is P1 000 or over, such conviction shall have the effect of cancelling such licence, permit, authority or permission, unless the court in any particular case decides otherwise.

(3) Anything forfeited to the State under this section shall be disposed of as the Minister may direct: Provided that such disposal shall not in any way include returning any of the items to the offender or any party to the offence.
5. **What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including**

The minimum and maximum sentences for each category are provided below, where a minimum and maximum cannot be provided the relative penalty range is provided.

**a) Poaching (illegal hunting)**

As seen above there are various offences created in relation to illegal hunting, however, applicable penalties range between; a fine of P500 and imprisonment of 6 months and; a fine of P100 000 and 15 years imprisonment (in relation to killing of a rhinoceros).

**b) Illegal possession**

The penalty for illegal possession is generally of P50 000 and to imprisonment for 10 years.

**c) Illegal processing of animal material**

NA

**d) Illegal export and Export**

Various offences are created in relation to illegal import and export: penalties range between; a fine not exceeding P5,000 or to imprisonment for a term not exceeding five years, and; a fine of P100 000 and imprisonment for 10 years. (in all cases both a fine and imprisonment may be given.

**e) Illegal supply and sale**

As seen above, various offences are created in respect of sale/transfer/buying and selling of wild animals or their products. Penalties for such crimes range between liable on first conviction to a fine not exceeding P5,000 or to imprisonment for a term not exceeding five years, and; a fine of P100 000 and to imprisonment for 15 years.

**f) Illegal consumption**

NA – See illegal sale of meat.

**g) Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?**

As indicated above, Botswana’s wildlife laws provide for forfeiture of proceeds of wildlife offences and any items involved in wildlife offences.

Botswana has 7 pieces of legislation which have a bearing money laundering, these are;

- The Banking Act (Cap.46:04);
- The Bank of Botswana Act (Cap. 55:01);
- The Proceeds of Serious Crime Act (PSCA) (Cap. 08:03);
The Corruption and Economic Crime Act (Cap. 08:05) (CECA); The Extradition Act (Cap. 09:03); The Banking (Anti-Money Laundering) Regulations (S.I. No. 17 of 2003); and The Mutual Assistance in Criminal Matters Act (MACMA) (Cap. 08:04).  

The Proceeds of Serious Crime Act (PSCA) (Cap. 08:03)  

The PSCA applies only to serious offences in Botswana; a "serious offence" means an offence the maximum penalty for which is death, or imprisonment for not less than two years. Therefore, this act will only apply if the wildlife sentences meet the requirements of a "serious offence". A serious offence for the purposes of this Act is

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### 6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money laundering. Please provide the full citation of the applicable legal provision.

Below are penalties relating to abovementioned financial penalties:

**a) Corruption and Tax evasion**

"Any person who is guilty of corruption or cheating the revenue under this Part shall, upon conviction, be liable to imprisonment for a term not exceeding 10 years or to a fine not exceeding P500 000, or to both."[10]

**b) Fraud**

**Penal Code of Botswana Chapter 08:01**

Section 99 and 100: Official Corruption/extortion: imprisonment for a term not exceeding three years

**c) Money laundering**

A person guilty of money laundering in terms of the Proceeds of Serious Crime Act will be liable for imprisonment for a term not exceeding three years or to a fine not exceeding P10 000, or both, or if the offender is a body of persons, then, every person who at the time of the commission of the offence was a director, manager or partner of such body shall be liable to a fine not exceeding P25 000.[11]

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[9] Botswana’s Legislative Capacity to Curb Money Laundering  
[10] The Corruption and Economic Crime Act (Cap. 08:05) (CECA); Section 18  
[11] Proceeds of Serious Crime Act Section 14(2)

The following questions are key research questions which the Environmental Investigation Agency has outlined:

<table>
<thead>
<tr>
<th>1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).</th>
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<tr>
<td><strong>Yes</strong></td>
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<tr>
<td>Accession: 13/12/1978</td>
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<td>Entry into force: 13/03/1979.12</td>
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<tr>
<th>2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.</th>
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<tbody>
<tr>
<td>The following laws apply to wildlife offences in Kenya;</td>
</tr>
<tr>
<td>• The Wildlife (Conservation and Management) Act 1985 (Revised 2009)</td>
</tr>
<tr>
<td>• The Environmental Management and Co-Ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulators. 2006 Arrangement of Regulations</td>
</tr>
<tr>
<td>• Proceeds of Crime and Anti-Money Laundering Act No. 9 of 2009</td>
</tr>
</tbody>
</table>

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<tr>
<th>3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?</th>
</tr>
</thead>
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</tr>
</tbody>
</table>

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4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

The definition of each wildlife offence is stated below each applicable piece of legislation/regulation:

**The Wildlife (Conservation and Management) Act 1985 (Revised 2009)**

According to section 1 a “Forfeiture offence” means an offence which is so designated by any of the provisions of this Act creating offences;

**Section 13:** (1) Any person who, not being a member of the Service acting in the course of his duties as such, hunts any animal in a National Park shall be guilty of a forfeiture offence and liable to a fine of not less than five thousand shillings and not more than twenty thousand shillings or to imprisonment for a term which shall not be less than six months and not more than three years, with or without corporal punishment or to both.

(2) Any person who, without authorization conveys into a National Park, or being within the area thereof, is in possession of, any weapon, ammunition, explosive, trap or poison, shall be guilty of a forfeiture offence.

(3) Any person who, without authorization—
   (a) enters or resides in a National Park otherwise than in the course of his duty as a public officer or as a person lawfully employed in the Park;
   (d) wilfully damages any object of geological, prehistoric, archaeological, historic, marine or other scientific interest within a National Park, or knowingly removes or attempts to remove any such object or any portion thereof from National Park;
   (e) is, without lawful excuse in possession of any animal or trophy within or without a National Park;
   (f) knowingly introduces any animal or domestic animal or vegetation into a National Park;
   (g) deliberately disturbs or stampedes any animal in a National Park;

   Shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

**Section 14:** (1) Notwithstanding any other provision of this Act, no person shall follow any wounded animal into a National Park, and where, under that provision, a person has in other circumstances a duty to follow or kill, or to make a report relating to a wounded animal he shall, at the earliest practicable moment, make a report to an officer of the Service as to all the circumstances of the case.

(2) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

**Section 15:** (1) Where the Minister, after consultation with the competent authority, is satisfied that it is necessary, for ensuring the security of the animal or vegetable life in a National Park or in a National Reserve or in a local sanctuary or for preserving the habitat and ecology thereof, to prohibit, restrict or regulate any particular acts in any area adjacent to the Park, National Reserve or local sanctuary he may, by notice in the Gazette, declare the area to be a protection area and may, by the same or a subsequent notice, specify the acts which are prohibited or restricted or regulated and the extent or manner of the restriction or regulation.

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13 Penalties for forfeiture offences are listed below under section 56 of The Wildlife (Conservation and Management) Act 1985.
(2) Any person who, in a protection area, does any act in contravention of a notice under subsection (1) relating to that area shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

Section 19: (4) Any person who in a local sanctuary hunts any animal which is specified in respect of that sanctuary under subsection (1) shall be guilty of a forfeiture offence.

Section 22: (1) Except as otherwise expressly provided by this Act or the rules any person who—

(a) Hunts any protected animal; or
(b) Hunts any game animal otherwise than as the holder of, and in accordance with any conditions attaching to, a game licence authorizing him to hunt that animal, shall be guilty of a forfeiture offence.

(2) Except as otherwise provided by this Act or the rules, any person who hunts any game bird otherwise than as the holder of, and in accordance with any conditions attaching to, a game licence authorizing him to hunt such bird shall be guilty of an offence.

Section 24(3): Every holder of a game licence shall carry the licence with him at all times when engaged upon any of the activities authorized by the licence, and any person who fails to comply with this subsection shall be guilty of an offence.

Section 27: (1) Any person who, not being the holder of a professional hunter’s licence issued under this section:

(a) carries on the business of a professional hunter, or advertises himself or solicits custom in connexion with such business; or
(b) for hire or reward with the intention of making profit, assists any person to hunt any game animal or game bird,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a period not exceeding three years or to both:

Provided that paragraph (b) shall not apply to any person employed solely as a tracker, gun-bearer or beater.

Section 33: Any person who;

(a) in any circumstances whatsoever, causes unnecessary or undue suffering to a protected animal or game animal; or
(b) Without the permission of a warden, is in possession of or has in his control or keeping, any such animal which has been maimed or mutilated, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding eighteen months or to both.

Section 34: (1) No person shall;

(a) sell, buy, use or have in his possession any gin or similar trap having a jaw length of four inches or more, or any snare or similar contrivance made of wire;
(b) for the purpose of or in connection with hunting or assisting in hunting any animal, cause any fire or surround any animal with fire, or make, use or have in his possession any of the following things;

(i) any firearm capable of firing more than one missile as a result of one pressure of the trigger or of reloading itself without further action by the operator;
(ii) any explosive, other than the propellant charge in firearms cartridges, or any missile containing explosive;
(iii) any fixed stake or similar sharp instrument;
(iv) any set-gun, pitfall, game-pit, trench or similar excavation;
(v) any net, fence or enclosure;
(vi) any gin, trap, snare or similar device other than such as are mentioned in paragraph (a);
(vii) any poison or like injurious substance, or any poisoned weapon;
(viii) any other means or method of hunting which may be prescribed as unlawful;
(c) hunt any game animal during the period between seven o’clock in the evening and half-past five
o’clock in the morning;
(d) partake in any game drive other than a drive of birds;
drive any game animal into water for the purpose of incapacitating, killing or capturing it.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of a forfeiture offence.

Section 37 (2): Any person who hunts any animal;
(a) by any means, weapon or missile the use of which is prohibited under this section; or
(b) in breach of any condition or restriction imposed in respect of the use of the means, weapon or
missile used by him in such hunting, shall be guilty of a forfeiture offence

Section 38: (1) The Minister may, by notice in the Gazette, declare that, during such period and within such
area as may be specified in the notice, the hunting of such game animals or game birds as may be so specified
shall be unlawful.
(2) Any person who hunts any animal in contravention of a notice under this section shall be guilty of a forfeiture offence.

Section 39(2): Any person who by any means obtains possession of a Government trophy shall forthwith
make a report thereof to an authorized officer and shall hand the trophy over to the authorized officer.

(3) Any person who:
(a) fails to make a report required by subsection (2); or
(b) is unlawfully in possession of, or unlawfully deals in, any Government trophy,
shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to
imprisonment for a term not exceeding twelve months or to both.

Section 40(5): Any person who—
(a) imports or attempts to import any trophy, ivory or rhinoceros horn in contravention of subsection
(1); or
(b) fails to produce any trophy, ivory or rhinoceros horn as required by subsection (3),
shall be guilty of a forfeiture offence and liable to a fine not exceeding ten thousand shillings or to
imprisonment for a term not exceeding three years or to both.

Section 41: (1) Where any person kills or captures any animal under the authorization of a game licence, he
shall, within thirty days after the killing or capture, produce the animal or, as the case may be, any trophy of
the animal which he wishes to retain, to a warden who shall issue a certificate of ownership in respect thereof:
Provided that, if the person wishes to have any process applied in Kenya to the trophy, a warden may, upon
application made to him in that behalf, extend the period of thirty days for such further period as he may
consider necessary to enable the processing to be carried out before the issue of a certificate of ownership in
respect of the completed trophy.

(2) Any person who fails to produce any animal or trophy as required by this section shall be guilty of an
offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding
three years or to both: Provided that it shall be a defence to any proceedings under this subsection for the
accused to prove to the satisfaction of the court that his failure to comply with the provisions of subsection (1)
arose from circumstances beyond his control and that he produced the animal or trophy concerned to a warden
at the earliest practicable time.

Section 42: (1) Except as otherwise provided by this Act, any person who is in possession of any trophy, or of
any ivory or rhinoceros horn of any description, without also being in possession of a certificate of ownership
in respect thereof shall be guilty of a forfeiture offence and;
(a) if that person is the holder of a dealer’s licence under section 43, be liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding five years or to both; or
(b) in any other case, be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three years or to both.

Section 43: (1) No person shall carry on the business of a dealer unless he is the holder of a valid dealer’s licence issued by a licensing officer.
(2) An application for a dealer’s licence shall be made to a licensing officer in the prescribed form, and the licensing officer may grant or, without assigning any reason therefore, refuse to grant the licence.
(3) A dealer’s licence;
(a) shall be in the prescribed form;
(b) shall be subject to such conditions as may be prescribed or authorized by the rules regulating the manner, place or hours in, at or during which the licensed business may be carried on and the trophies or class of trophies which may be dealt in;
(c) shall be subject to the payment of the prescribed fee, and different fees may be prescribed for different classes of dealers;
(d) shall, subject to any other provision of this Act, be valid for a period of twelve months from the date of issue thereof.
(4) Any person who—
(a) not being the holder of a dealer’s licence, carries on the business of a dealer; or
(b) being the holder of a dealer’s licence, fails to comply with any condition to which the licence is subject,

shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding five years or to both.

Section 44: (1) Subject to subsection (3), no person shall transfer the ownership of any trophy to any other person by way of gift, sale or otherwise unless he is in possession of a certificate of ownership in respect of the trophy and unless, at the time of the transfer, he endorses the certificate with the date of transfer and the name of the person to whom the trophy is transferred and hands over the certificate to that other person.
(2) Any person who transfers any trophy to another otherwise than in compliance with subsection (1) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.
(3) Nothing in this section shall apply to any transfer of ownership of a trophy by operation of law or in consequence of the death of the owner of the trophy.

Section 45: (1) No person shall export any live protected animal, game animal or game bird except—
(a) through a customs port of entry; and
(b) under and in accordance with an export permit issued by the Director on payment of the prescribed fee, which shall be non-refundable whether or not the permit is granted, and which permit may be refused by the Director without assigning any reason therefor.

(2) No person shall export any trophy other than a live animal except through a customs port of entry and upon production to a proper officer of customs of a certificate of ownership relating to that trophy.

(3) Notwithstanding subsections (1) and (2) no person shall, without the written permission of the Minister, export any animal or trophy of a class which the Minister, by notice in the Gazette, has declared to be a prohibited export.

(4) Nothing in this section shall apply to any animal or trophy which is—

(a) in transit through Kenya if the animal or trophy is accompanied by the necessary transit documents issued in the country of origin or export and is entered through a customs port of entry; or

(b) accompanied by a person who is in possession of, and produces to a proper officer of customs, a certificate issued in Tanzania or Uganda certifying that such person is lawfully authorized to export, the animal or trophy, and the person satisfies the officer of customs that;

(i) the certificate was issued to him; and

(ii) that he is himself exporting the animal or trophy from Kenya.

(5) Any person who exports or attempts to export any animal or trophy in contravention of any of the provisions of this section shall be guilty of a forfeiture offence.

Section 49 (2): If an authorized officer has reasonable grounds for believing that any person has committed an offence under this Act or the rules he may, Provided that no dwelling-house shall be entered without a warrant except under exceptional circumstances;

(c) seize and detain anything which appears to the officer to be a Government trophy, or any vehicle, boat, firearm or other weapon, trap, net or poison, or any instrument, material or thing whatsoever in relation to or in connexion with which any offence against his Act or the rules appears to have been committed or which appears to the officer to have been used in, or for the purposes of, the commission of any such offence, whether or not it is in the immediate possession of any person;

Section 56: (1) Any person who is guilty of an offence under this Act for which no other penalty is expressly provided shall be liable;

(a) if the offence is committed in respect of a protected animal or an animal mentioned in Part I of the First Schedule, or in respect of any trophy of that animal, to a fine not exceeding forty thousand shillings or to imprisonment for a term not exceeding ten years or to both;

(b) if the offence is committed in respect of an animal mentioned in Part II of the First Schedule, or in respect of any trophy of that animal, to a fine not exceeding twenty thousand shillings or to imprisonment of a term not exceeding five years or to both;

(c) if the offence is a forfeiture offence not included in paragraph (a) or (b), to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three years or to both;

(d) in any other case, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both.

(2) Upon the conviction of any person for an offence under this Act which relates to more than one animal or trophy the court may inflict an additional punishment in respect of each animal or trophy after the first of a fine not exceeding six thousand shillings, or one-half of the fine prescribed by this Act for the offence, whichever is the less.

The Environmental Management and Co-Ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulators, 2006 Arrangement of Regulations
**Regulation 23:** A contravention or failure to comply with any of the matters provided in these Regulations shall constitute an offence.

**Regulation 24:** Any person convicted of an offence under these Regulations shall be liable to imprisonment for a term not exceeding eighteen months, or to a fine not exceeding three hundred and fifty thousand shillings, or both.

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5. **What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including the relative penalty range is provided.**

The minimum and maximum sentences for each category are provided below, where a minimum and maximum cannot be provided the relative penalty range is provided.

- **a) Poaching (illegal hunting)**
  
  As seen above there are various offences created in relation to illegal hunting. Penalties for these offences range between: a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both, and; a fine not exceeding twenty thousand shillings or to imprisonment of a term not exceeding five years or to both.

- **b) Illegal possession**

  **Possession of a Trophy:** “A fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.”

  **Possession without certificate of ownership:** “(a) if that person is the holder of a dealer’s licence under section 43, be liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding five years or to both; or (b) in any other case, be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three years or to both.”

- **c) Illegal processing of animal material**

  See general provisions in terms of The Wildlife (Conservation and Management) Act 1985 (Revised 2009), above.

- **d) Illegal export**

  See general provisions in terms of The Wildlife (Conservation and Management) Act 1985 (Revised 2009), above.

- **e) Illegal import**

  **Import:** a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three years or to both.

- **f) Illegal supply and sale**

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Illegal dealing/ sales in contravention of the Act: fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

g) **Illegal consumption**

“In terms of any game meat related offences the minister is entitled to impose penalties, in respect of any breach of the regulations, not exceeding a fine of twenty thousand shillings or imprisonment for a term not exceeding three years or both.”

h) **Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?**

Yes, this is covered above in the Proceeds of Crime and Anti-Money Laundering Act No. 9 of 2009:

**Proceeds of Crime and Anti-Money Laundering Act No. 9 of 2009**

**Section 1: “Money laundering”**
A person who knows or who ought reasonably to have known that property is or forms part of the proceeds of crime and;

(a) enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether that agreement, arrangement or transaction is legally enforceable or not; or

(b) performs any other act in connection with such property, whether it is performed independently or with any other person, whose effect is to;

(i) conceal or disguise the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof; or

(ii) enable or assist any person who has committed or commits an offence, whether in Kenya or elsewhere to avoid prosecution; or

(iii) remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offence,

**Section 4: Acquisition, possession or use of proceeds of crime**
A person who

(a) acquires;

(b) uses; or

(c) has possession of, property and who, at the time of acquisition, use or possession of such property, knows or ought reasonably to have known that it is or forms part of the proceeds of a crime committed by another person, commits an offence.

**Section 7: Financial promotion of an offence**
A person who, knowingly transports, transmits, transfers or receives or attempts to transport, transmit, transfer or receive a monetary instrument or anything of value to another person, with intent to commit an offence, that person commits an offence.

6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.

Below are penalties for the aforementioned financial offences:
a) Corruption

Section 48: (1) A person convicted of an offence under this Part [crimes relating to corruption and fraud] shall be liable to;

(a) a fine not exceeding one million shillings, or to imprisonment for a term not exceeding ten years, or to both; and
(b) an additional mandatory fine if, as a result of the conduct that constituted the offence, the person received a quantifiable benefit or any other person suffered a quantifiable loss.16

b) Tax evasion

The Kenyan Income Tax Act (Capt 470) of 201017 provides for various offences and regulatory provisions which would apply to those involved in wild life crimes, these include;

Section 98(1): If a person fails to keep adequate books of accounts, file provisional return or file a final return then such person will be liable to the “higher of 2.5 percent of the difference between the income tax payable and the amount of income tax paid by the start of the month…”18

Section 107: “A person guilty of an offence under this Act for which no other penalty is specifically provided shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.”

Section 102: if a person, wilfully or negligently, aids and abets another to commit and offence shall be liable for a penalty of 100 percent of the tax uncovered.

c) Fraud

See Corruption above. The Wildlife (Conservation and Management) Act 1985 (Revised 2009) also provides for offences in respect of hunting licences which may have applicability.

d) Money Laundering

Proceeds of Crime and Anti-Money Laundering Act No. 9 of 2009 states:

Section 16; Penalties

(1) A person who contravenes any of the provisions of sections 3, 4, or 7 is on conviction liable;
(a) in the case of a natural person, to imprisonment for a term not exceeding fourteen years, or a fine not exceeding five million shillings or the amount of the value of the property involved in the offence, whichever is the higher, or to both the fine and imprisonment; and
(b) in the case of a body corporate, to a fine not exceeding twenty-five million shillings, or the amount of the value of the property involved in the offence, whichever is the higher.

(2) A person who contravenes any of the provisions of sections 5, 8 or 13 is on conviction liable;
(a) in the case of a natural person, to imprisonment for a term not exceeding seven years, or a fine not exceeding two million, five hundred thousand shillings, or to both and

16 The Anti-Corruption & Economic crimes Act 2003; Section 48.
18 Ibid note 8 above.
(b) in the case of a body corporate, to a fine not exceeding ten million shillings or the amount of the value of the property involved in the offence, whichever is the higher.

(3) A person who contravenes any of the provisions of section 12(3) is on conviction, liable to a fine not exceeding ten percent of the amount of the monetary instruments involved in the offence.

(4) A person who contravenes the provisions of section 9, 10 or 14 is on conviction liable—
(a) in the case of a natural person, to imprisonment for a term not exceeding two years, or a fine not exceeding one million shillings, or to both and
(b) in the case of a body corporate, to a fine not exceeding five million shillings or the amount of the value of the property involved in the offence, whichever is the higher.

(5) A person who contravenes the provisions of section 11(1) is on conviction liable to a fine not exceeding ten percent of the amount of the monetary instruments involved in the offence.

(6) Where any offence under this Part is committed by a body corporate with the consent or connivance of any director, manager, secretary or any other officer of the body corporate, or any person purporting to act in such capacity, that person, as well as the body corporate, shall be prosecuted in accordance with the provisions of this Act.

The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).

   Yes
   Accented: 05/02/1982 (A)
   Entry into force: 06/05/1982.19

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.

   The following laws apply to wildlife offences in Malawi:
   - National Parks and Wildlife (Use of substances Or Devices in Hunting) Regulations. 1994
   - National Parks and Wildlife (Hunting Weapons) Regulations. 1993
   - National Parks And Wildlife (Control of Trophies and Trade in Trophies) Regulations, 1994
   - National Parks and Wildlife (Miscellaneous Forms) Regulations, 1994
   - National Parks and Wildlife (Protected Species) (Declaration) Order, 1994
   - National Parks and Wildlife (Control of Trade in Live Animals) Regulations, 1994

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

   The following laws impose criminal liability for wildlife offences in Malawi:

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

   Wildlife offences under Malawi law are predominantly contained in the National Parks and Wildlife Act 11 of 1992; the relevant wildlife offences are listed below:

National Parks and Wildlife Act No. 11. Of 1992

Section 47 (1) Except as otherwise provided by this Act, any person who hunts or takes any protected species, except in accordance with the conditions of a licence issued pursuant to this Part shall be guilty of an offence:

Section 60: (1) every licensee under this Part shall have the licence in his possession whenever he is hunting or taking any animal or plant;

(b) Produce the licence for inspection by an officer or police officer upon request; and

…

(c) keep a true record, in the prescribed form, of all game species hunted or taken by him during validity of the licence.

(2) Any person who contravenes this section shall be guilty of an offence.

Section 62: (1) any licensee under this Part may employ or use another person to assist him as a guide, tracker or porter in hunting protected species.

(2) any person employed under subsection (1), not being himself a licensee, who chases, drives or employs any weapon against any protected species shall be guilty of an offence.

Section 64: (1) Subject to subsection (2), any person who, for the purpose of hunting, taking or assisting another to hunt or take, any wild animal or plant, causes any fire shall be guilty of an offence.

Section 65: Except as may be authorized under a special licence issued pursuant to section 53, or as permitted under the provisions of Part IX, any person who hunts any dependent young or any female accompanied by dependent young of any protected species shall be guilty of an offence.

Section 66 (1) except as may be authorised by conditions contained in any licence issued under this Act, any person who-

(a) For the purpose of or in connection with hunting or taking of protected species, possesses, prepares; makes, buys, sells or uses any poison, birdlime trap, net, snare or similar substance or device capable of killing, capturing or wounding, any protected species;

(b) Makes, prepares or uses any excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing capturing or wounding, any protected species

Shall be guilty of an offence.

Section 67: (1) The Minister may from time to time, on the recommendations of the Board or the Chief Parks and Wildlife Officer, make regulations specifying the types, sizes, and calibres of weapons which may lawfully be used for hunting any protected species.

(2) A person who contravenes the provision of any regulation made under this section shall be guilty of an offence.

Section 70: (1) Except as provided by subsection (2) or as may be authorized by the conditions contained in any licence under this Act, any person who-

(a) discharges any weapon at any protected species from or within fifty metres of any motor vehicle, aircraft, or boat;
(b) uses any motor vehicle, aircraft or boat to drive or stampede any protected species; or
(c) uses any aircraft or radio communication system to locate any protected species for the purpose of
hunting it,

shall be guilty of an offence.

Section: 71(1) The Minister may from time to time, on recommendation of the board, make regulations
(a) Prohibiting the use of any domestic animal as an aid to hunting any protected species; or
(b) Specifying the conditions under which any domestic animal may be used to hunt any protected
species

(2) Any person who contravenes the provisions of any regulations made under this section will be guilty of an
offence.

Section 76: (1) Except as otherwise provided by this Act, or by the conditions of any licence issued under Part
VI, the killing of any protected animal under section 74 or 75 shall not be deemed to transfer ownership of the
carcass thereof to any person.

(2) Any person who kills a protected animal under section 74 or section 75 shall, as soon as practicable, report
the facts to any officer and shall, unless otherwise entitled to retain the same under the conditions of any
licence issued under Part VII, hand over the carcass or such parts thereof as the officer may direct.

(3) Any person who contravenes this section shall be guilty of an offence.

Section 78: (1) if any person kills any protected animal through accident or error he shall, as soon thereafter
as may be practicable, report the facts to an officer and shall hand over the carcass or such parts thereof as the
officer may direct.

(2) Nothing in subsection (1) shall apply to any person if such person is entitled under any licence issued
under Part VII to hunt a protected or game animal of that species and sort, in the circumstances under which
he killed such animal and no offence under this Act shall have been committed in relation to the killing of
such animal.

(3) Any person who contravenes this section shall be guilty of an offence.

Section 79:(1) Any person who in any circumstances wounds any protected animal and fails without
reasonable cause to use all reasonable endeavour to kill such animal at the earliest opportunity, shall be guilty
of an offence.

Section 80:(1) Any person who, in any circumstances whatsoever, wounds any dangerous animal and fails to
kill or capture it within 24 hours after its wounding shall, immediately report the facts to an officer.

(2) Any officer who receives a report pursuant to subsection (1) shall take immediate steps to locate the
wounded animal, assess its condition and decide, as he sees fit, whether or not to kill it and shall either carry
out the act himself or give instructions accordingly: Provided that if the animal enters a national park or
wildlife reserve provisions of subsections (2) or (3) of section 79, as the case may be, shall apply.

(3) The provisions of section 79 (1) in respect to private land shall not apply to a person entering such land in
pursuit of a dangerous animal wounded by him: Provided that he reports the facts to the owner of the land as
soon as practicable.

(4) Any person who contravenes this section shall be guilty of an offence.
Section 82: Any person who willfully and without just excuse or cause-
(a) molests or provokes any protected or game animal in a manner which results or is likely to result in its destruction: or
(b) molests or provokes any wild animal in a manner which results or is likely to result in the provocation, harassment or destruction of any protected or game animal,
shall be guilty of an offence.

Section 83: A person who causes unnecessary or undue suffering to any wild animal, whether the animal lives in the wild or is being kept in captivity, shall be guilty of an offence.

Section 86: (1) except as otherwise provided by subsection (2), any person who possesses, buys or sells, or who attempts to possess, buy or sell any specimen of a protected species shall be guilty of an offence.

Section 87: (1) The Minister may from time to time, on the recommendation of the Board make regulations providing for;
(a) the control of trade in live animals of such species as the Minister shall prescribe in the regulations and the control of trade in the carcasses, meat and skins of such animals;
(b) the control of industry engaged in the manufacturing of articles derived from protected animals;
(c) the control of the taxidermy industry;
(d) the issue of permits to persons engaged in the foregoing occupations, and for prescribing fees payable for such permits.
(2) Any person who contravenes any regulation made under this section shall be guilty of an offence.

Section 88: (1) Any person who, under a licence issued under Part VII, takes possession of a specimen of a protected species, other than specimen for human consumption shall within fourteen days, present the specimen together with his licence to the Chief Parks and Wildlife Officer and if he wishes to retain the specimen he may apply in writing or in the prescribed form, if any, to the Chief Parks and Wildlife Officer for a certificate of ownership in respect thereof.
(2) Any person who contravenes subsection (1) shall be guilty of an offence.
(3) Where the Chief Parks and Wildlife Officer is satisfied that an applicant under subsection (1) is in lawful possession of any specimen, he may issue a certificate of ownership which shall be in the prescribed form.
(4) Where the Chief Parks and Wildlife Officer is satisfied that an applicant under subsection (3) has been issued through fraud, misrepresentation or error, he may revoke the certificate and the person to whom the certificate was issued shall forthwith upon demand by the Chief Parks and Wildlife Officer surrender the certificate to him for cancellation and a person who, without valid reason, fails so to surrender the certificate shall be guilty of an offence.

Section 89: (1) Any person who transfers or purports to transfer ownership of any specimen of a prescribed species, whether by gift, sale or otherwise shall at the time of the transfer, or the purported transfer be in possession of a certificate of ownership in respect of the specimen.
(2) Upon the transfer of any specimen, the transferor shall surrender the certificate to the Chief Parks and Wildlife Officer who shall thereupon issue a new certificate to the new owner but the Chief Parks and Wildlife Officer shall retain the certificate surrendered to him.
(3) Any person who receives by transfer the ownership of any specimen of a prescribed species shall, at the time of the transfer, obtain from the transfer or in respect of the specimen a certificate of ownership endorsed pursuant to subsection (2).

(4) Any person who contravenes this section shall be guilty of an offence.

(5) Nothing in this section shall apply to any transfer of ownership occasioned by operation of law.

Section 90: (1) any specimen of any protected species the absolute ownership of which has not passed to any person under the provisions of this Act, shall be a government trophy for the purposes of this Act.

(2) Any person who obtains any government trophy by any means shall, as soon thereafter as may be practicable, report the facts to an officer and, if required, shall deliver up the trophy to the officer.

(3) Any person who contravenes subsection (2) shall be guilty of an offence.

(4) Any specimens so received or collected by an officer pursuant to subsection (2) shall be delivered by him to the Chief Parks and Wildlife Officer and all specimens received by the Chief Parks and Wildlife Officer shall be subject to the provisions of Part XIII.

Section 91: (1) Any person who unlawfully possesses or who purports to buy, sell, or otherwise transfer or deal in any government trophy shall be guilty of an offence.

Section 98: Any person who imports, exports or re-exports or attempts to import or export or re-export any specimen of a protected species or a listed species-

(a) except through a customs post or port; or

(b) without producing to a customs officer a valid permit to import, export or to re-export the specimen, shall be guilty of an offence.

Section 99: (1) The Minister may, after consulting the Minister responsible for Trade and Industry, make regulations imposing additional restrictions on imports, exports or re-exports of specimens of a protected species or listed species and for the purposes of such regulations the Minister may incorporate the requirements under any international, regional or bilateral agreement to which Malawi or the Government is a party.

(2) Any person who contravenes regulations made under subsection (1) shall be guilty of an offence.

Section 108: Subject to the provisions of this Act, a person who is convicted of an offence under this Act for which no other penalty is provided shall:

(a) in the case of a first offence, be liable to a fine of not less than K200 but not more than K500 and to imprisonment for a term of three months;

(b) in the case of a second or subsequent offence, to a fine of not less than K500 but not more than K1,000 and to imprisonment for a term of six months.
Section 109: Any person who is convicted of an offence involving:
(a) taking, hunting, molesting or reducing into possession any game species; or
(b) possession of, selling, buying, transferring, or receiving in transfer any specimen of game species,
shall-
(i) in the case of an offence committed in a protected area, be liable to a fine of not less than K800 but
not more than K2,000 and to imprisonment for a term of one year;
(ii) in the case of an offence committed in an area other than a protected area, be liable to a fine of not
less than K50 but not more than K2000 and to imprisonment for a term of one year.

Section 110: Any person who is convicted of an offence involving-
(a) taking, hunting, molesting, or reducing into possession any protected species other than game
species; or
(b) possession of, selling, buying, transferring or accepting in transfer any specimen of protected
species other than game species;
(c) contravention of sections 32, 33, and 35 of this Act,
shall be liable to a fine of K10,000 and to imprisonment for a term of 5 years, and in any case the fine shall
not be less than the value of the specimen involved in the commission of the offence.

Section 111: Any person who is convicted of an offence under section 98 or under regulations made pursuant
to section 99 shall be liable to a fine of K10,000 and to imprisonment for a term of 5 years, and in any case the
fine shall not be less than the value of the specimen involved in the commission of the offence.

Section 112: If any person is convicted of an offence under this Act in respect of any excavation, fence,
enclosure or any other device fixed in or on the ground or upon vegetation, which the person has made, used
or had in his possession for the purpose of hunting in contravention of this Act, the court shall, in addition to
any other penalty imposed, order the device to be destroyed or obliterated in such manner as the court may
specify, and any expenditure incurred, if any, shall be recoverable from the person as a civil debt owed to the
Government.

Section 113: (1) Upon the conviction of any person of an offence under this Act where it considers forfeit
ure to be necessary. The court shall, notwithstanding any other written law and subject to the provisions of section
108 and in addition to any other penalty imposed, declare any specimen, domestic animal or any firearm or
other weapon, trap, net, poison, material or any motor vehicle, aircraft, boat, or any other article taken by or
used in connexion with the commission of the offence to be forfeited to the Government.

(2) Upon the conviction of any person of an offence referred to in section 99, the court may, in addition to any
other penalty specified under subsection (1) to be forfeited to the Government.

(3) the disposal of any specimen, domestic animal or article forfeited to the Government under this section
shall be subject to the provisions of Part XIV.

Section 114: (1) When a court is required under subsections 116 (1) and (2) to make a declaration of forfeiture
in respect of any article the ownership, of which requires registration under any written law, the court shall
make a conditional order of forfeiture in the prescribed form.
(2) Upon the making of a conditional order of forfeiture pursuant to subsection (1), the Chief Parks and Wildlife Officer shall, within thirty days thereafter, cause to be published in the Gazette and in two consecutive issues of a local newspaper in general circulation, a notice of the order.

(3) If ownership of the article is registered in the name of any person other than the convicted party, the Chief Parks and Wildlife Officer shall, within seven days after publication of the notice in the Gazette cause a copy thereof to be sent to the person concerned.

(4) Any person who wishes to claim right of ownership in the article may, within sixty days of the last publication of the conditional order, lodge with the court a written application for discharging of the order, setting out his claim of ownership in the article.

(5) Upon an application made under subsection (4), the court shall set a date for a hearing of the application and serve notice of the hearing on the applicant and on the Government.

(6) In any hearing of any application made under subsection (4), the burden of proof shall be upon the applicant, and the conditional order shall not be discharged unless the applicant proves, that he was not privy to the offence and that the article was, at the time that the offence was committed, being used for that purpose without his knowledge or consent.

(7) If any application made under subsection (4) fails to win discharge of a conditional order, the court shall declare the article finally forfeited to the Government.

(8) Where upon any application made under subsection (4), a court is satisfied that an article is owned jointly by, or is the subject of a rental agreement between, the applicant and the convicted person, and the applicant has discharged the burden of proof in accordance with subsection (6), the court shall declare forfeited all of the estate, interest or rights of the convicted person therein, and shall order them to be disposed of as it deems fit.

(9) any right of any claimant under any rental agreement to repossess any article which is subject to a conditional order of forfeiture made under subsection (1) shall be suspended pending determination of any application made under subsection (4).

Section 115: (1) If any article the ownership of which requires registration under any written law is seized as a result of an offence under this Act and the person, responsible is unknown and cannot be found for the purpose of charging him with the offence or having been charged, fails to appear to answer the charge, the Chief Parks and Wildlife Officer may apply to the court for a declaration of forfeiture.

(2) Upon receipt of an application from the Chief Parks and Wildlife Officer under subsection (1), the court shall make a conditional order of forfeiture in the prescribed form and the provisions of subsection (2) to (9) of section 114 shall apply.

Section 116: If any licensee under any licence or the holder of any permit or certificate issued under this Act is convicted of an offence under this Act which involves the licence, permit or certificate, the court shall, in addition to any other penalty imposed, order the person to surrender it forthwith to the Chief Parks and Wildlife Officer to be dealt with by him in accordance with the provisions of this Act.
5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

The minimum and maximum sentences for each category are provided below, where a minimum and maximum cannot be provided the relative penalty range is provided.

a) **Poaching (illegal hunting)**

Minimum: fine not less than K50 but no more than K2000 and one year imprisonment.
Maximum: K10 000 and term of 5 years imprisonment.

b) **Illegal possession**

See poaching above

c) **Illegal processing of animal material**

See poaching above

d) **Illegal export**

Maximum: K10 000 and term of 5 years imprisonment.

e) **Illegal import**

Maximum: K10 000 and term of 5 years imprisonment.

f) **Illegal supply and sale**

See poaching above

g) **Illegal consumption**

See poaching above

h) **Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?**

As seen above, the National Parks and Wildlife Act No. 11. Of 1992 provides extensively for the forfeiture and confiscation of items used in the commission of wildlife crimes. In addition to this Malawi has specific legislation which dealing with money laundering and the proceeds of serious crimes; The Money Laundering Proceeds of Serious Crime and Terrorist Financial Act, 2006. This piece of legislation provides for various penalties related to money laundering, it also provides for the confiscation of proceeds of serious crime20.

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For the purposes of this piece of legislation, a “serious crime” is defined as;
An offence against a provision of-
(a) Any written law in Malawi, for which the maximum penalty is death or imprisonment for life or other deprivation of liberty for a period of not less than 12 months, and includes money laundering and terrorist financing;

6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.

a) Corruption
Minimum: Fine of K10 000\textsuperscript{21}
Maximum: twelve years imprisonment\textsuperscript{22}

b) Tax evasion
Minimum: K1000
Maximum: K100 000 and 5 years imprisonment\textsuperscript{23}

c) Fraud
The Penal Code of Malawi contains various sentences in relation to many activities involving fraud,\textsuperscript{24} however, these penalties range between 3 and 10 years imprisonment.

d) Money Laundering
(a) Natural person: liable for imprisonment for ten years and, to affine of K2.000.000
(b)Corporation: liable to a fine of K10, 00,000 and loss of business authority.\textsuperscript{25}

Reference List:
Provisions for this compilation were obtained from the following translated texts:

- Mozlegal : Law on Forestry and Wildlife 10/1999 of 7 July.

\textsuperscript{21} Corrupt Practices Act 18 of 1995: Section 34
\textsuperscript{22} Corrupt Practices Act 18 of 1995: Section 34
\textsuperscript{24} Chapter XXXVI
\textsuperscript{25} Money Laundering Act 20 of 2006: section 35(3)(a)(b)

The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).
   
   Yes
   Accession: 25/03/1981
   Entry into force: 23/06/1981.26

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.
   
   The following laws apply to wildlife offences in Mozambique;
   - The Forestry and Wildlife Law (Law 10/99 of 7 July 1999)
   - Regulation of Forestry and Wildlife Decree No. 12/2002 of 6 June 2002

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?
   
   The following laws impose criminal liability for wildlife offences in Mozambique;
   - The Forestry and Wildlife Law (Law 10/99 of 7 July 1999)
   - Regulation of Forestry and Wildlife Decree No. 12/2002 of 6 June 2002

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.
   
   The definition of each wildlife offence is stated below each applicable piece of legislation/regulation:

   **The Forestry and Wildlife Law (Law 10/99 of 7 July 1999)**

   **Article 10 (8):** In exceptional cases, the Council of Ministers may authorise certain activities to be carried out inside the protection zones referred to in this Law on grounds of public necessity, utility or interest.

   **Article 11: National Parks**

   1. National parks are delimited total protection zones destined for the propagation, protection, conservation and management of plants and wild animals, as well as the protection of places, landscapes or geological

formations of particular scientific, cultural or aesthetic value, in the interests of and for public recreation, which are representative of national heritage.

2. The activities listed below are strictly forbidden in national parks, except where there are scientific reasons or on grounds of management needs:
   a) Hunting within the park boundaries;
   b) Forestry or agricultural exploitation, mining or livestock farming;
   c) Exploration and prospecting, drilling or construction of landfills;
   d) All works liable to modify the landscape or characteristics of the vegetation, as well as cause water pollution and, in general, any act which, by its nature, is capable of disturbing the flora and fauna;
   e) All introductions of zoological or botanical species, whether they are indigenous, imported, wild or domestic

Article 12
1. National reserves are total protection zones for the protection of certain species of flora and fauna that are rare, endemic, becoming extinct or in decline and fragile ecosystems, such as wetlands, dunes, mangrove forests and corals, as well as the conservation of flora and fauna within these ecosystems.
2. The permissions and prohibitions established for national parks apply to national reserves, subject to the exceptions provided for in this Law.
3. The resources that exist in national reserves may be used, under licence and according to regulations to be established, provided that this is not detrimental to the specific purpose for which they were created and is in accordance with the respective management plans

Article 20: Wildlife exploitation regime
1. Exploitation of wildlife in Mozambique shall take the following forms:
   a) Hunting under a simple licence;
   b) Game hunting;
   c) Commercial hunting.

2. The terms and conditions and annual quotas for killing wild animals, as well as the permitted instruments for hunting in the forms referred to in the preceding paragraph shall be established in a special diploma.

What are the minimum and maximum (Simple hunting licence)
1. National individual persons and local communities can hunt under a simple licence in multiple use forests and zones of historical and cultural use and value, for the purposes of meeting their own consumption requirements.
2. Local councils license hunting by local community members pursuant to the preceding paragraph in accordance with customary norms and practices and in co-ordination with the sector in charge.

Article 22: Game hunting
1. Hunting for sport is practised by national or foreign individual persons by means of cynegetic tourism in official game reserves and in game farms.
2. National individual persons can hunt for sport in multiple use zones on terms to be established in regulations.

Article 23: Commercial hunting
Commercial hunting is practised by individual persons and corporate entities in game farms, with a view to obtaining spoils or trophies for trade, by means of the farming of wild animals under the terms of this Law and other applicable legislation.

Article 24: Instruments and means used for hunting
Specific regulations shall govern restrictions on hunting, and the use of means and instruments that result in the indiscriminate capture or slaughter of species, such as burning, explosives, snares, mechanical traps, poisons and automatic weapons, shall not be permitted.

Article 25: Hunting to defend persons and property
1. Hunting outside the forms provided for in this Law is only permitted to defend persons and property against actual or imminent attacks by wild animals, when it is not possible to capture the animals or drive them away.

2. The hunting referred to in this article must be carried out promptly, once the facts are known, by specialised State brigades or by the private sector and by duly authorised local communities.

**Article 26: Trophies**

Trophies that are subject to manifests and those that are considered as State property shall be established in a special diploma.

**Article 34: Mandatory authorisation**

Authorisation to exploit, market, use and transport forest and wildlife products by land, river, sea or air under the terms of this Law and other applicable legislation is mandatory, subject to exceptions provided for by law.

**Article 39: General rules**

1. The infractions provided for in this Law are punishable by fines, coupled with compulsory measures to repair or compensate for the damages caused, without prejudice to other sanctions that may apply.

2. The Council of Ministers shall periodically update the amounts of the fines provided for in this Law.

3. Failure to pay a fine voluntarily makes the offender liable to the consequences provided for in the criminal law, in the jurisdiction where the infraction was committed, apart from other legal proceedings that may be established.

4. A specific diploma will establish the amounts of fines derived from violations of forestry and wildlife legislation that are to be used for the

**Article 41: Forestry or wildlife infractions**

1. The following acts and events constitute infractions punishable by fines of 2 000 000,00 MT to 100 000 000 MT:
   a) Carrying out any acts of forest exploitation without authorisation or contrary to the conditions for exploitation;
   b) Commission of any acts that disturb or endanger fauna in protection zones;
   c) Hunting without a licence or contrary to legally established conditions;
   d) Import or export of forest and wildlife resources without a licence or contrary to legally established conditions;
   e) Abandonment of forest and wildlife products covered by the licence.

2. The following acts and events constitute infractions punishable by fines of 1 000 000,00 MT to 20 000 000,00 MT:
   a) Storage, transport or trading of forest or wildlife resources without authorisation or contrary to legally established conditions;
   b) Receiving forest or wildlife resources without documentary evidence of the authorisation of the vendor or carrier.

3. If an infraction is committed against flora or fauna species that are rare or in danger of extinction or against any other species whose exploitation is prohibited, the applicable fine will be ten times the maximum amount provided for in this article, without prejudice to other sanctions that may apply.

**Article 44: Ancillary penalties**

The following ancillary penalties arise when the fines provided for in this Law are applied:

a) Forfeiture to the State of the forest and wildlife products and the instruments used in the commission of the infraction;

b) Confiscation and cancellation of authorisations issued in the name of the offender;

c) Partial or total suspension of the activities that gave rise to the infraction;

d) Barring of any new authorisations for a period of one year.
Regulation of Forestry and Wildlife Decree No. 12/2002 of 6 June 2002

Article 44: Restrictions on hunting

1. The following are objects of hunting (game):
   a) Animals listed in annex II of these Regulations;
   b) Young of any type of game;
   c) Pregnant females or females accompanied by young or the distinguishable members of any type of game;
   d) Any other animal that may be declared as protected by law or by convention

2. In exceptional cases the capture of protected species or their young may be authorised, as may the collection of eggs of protected species, for teaching or scientific purposes, when the products are destined for scientific research institutions or museums, or for the purpose of reproducing wildlife in captivity, or for the restocking of protection zones and game farms.

3. The National Directorate of Forestry and Wildlife or the National Directorate of Conservation Areas for Tourism, depending on the area of capture, shall have authority to authorise the acts referred to in the previous paragraph and shall indicate methods, locations and the period in which the capture is to be made.

4. Any hunting activity shall, in terms of law No. 10/99 of 7th July and of the present regulation, guarantee sustainability by following the rules and technical conditions pertaining to hunting.

Article 45: Hunting Products

1. Subject to legal exceptions, the game legally killed or captured is considered to be the property of the hunter.

2. The hunter has the right to his respective trophy, subject to legal exceptions.

3. The transport of game products on any road requires a certificate of animal health.

4. The hunter loses the right to the game and the respective trophy whenever the animal killed seeks refuge or falls in a protection zone, game farm or official game park, it being illegal for the hunter to continue to pursue the animal or invoke any right over it and, in either case, the hunter shall endeavour to notify the authorities in the closest protection zone or the owner of the game park or game farm.

5. During the hunt the hunter assumes full responsibility for harm caused to third parties, as well as harm caused by his assistants, those accompanying him, his dogs and his hunting tools and means.

Article 46: Hunting (Time and Place)

1. A joint Diploma from the Minister of Agriculture and Rural Development and the Minister of Tourism shall, each year, approve a hunting calendar and the respective provincial hunting quotas.

2. For the purposes of these Regulations, the general closed season is the period between 1st October and 31st March.

3. The Minister of Agriculture and Rural Development and the Minister of Tourism shall have authority to establish, by joint Ministerial Diploma, special closed seasons for specific zones or species, whenever there are technical reasons to do so.
4. It is only lawful to hunt during the day, day being considered as the hours between daybreak and sunset, except in cases specifically established in these Regulations.

5. Hunting of leopard, lion, crocodile and warthog are exceptions from the previous number.

6. Hunting may only be carried out in “multiple use” zones, on game farms, in official game parks, in buffer zones and in historically and culturally valuable zones.

7. Hunting is forbidden in the following areas and circumstances:
   a) Protection zones;
   b) Preferred roosts of birds;
   c) Nesting sites;
   d) Protected verges along national roads and the edge of railways, up to 500m on each side, measured from the centre of the track;
   e) Islands and islets in the national territory;
   f) Watering holes for wild animals;
   g) Fires or flooded areas during the fire or flood, and covering and area of 500m into adjacent land.

8. It is forbidden to hunt or carry a hunting weapon during the closed season.

9. During the period referred to in the previous paragraph, weapons must be transported in their cases.

Article 47: Hunting tools and means

1. Only the following tools may be used for hunting:
   a) Hunting weapons
   b) Bow and arrow and other “white weapons” except for mechanical snares and traps
   c) Clubs
   d) Hunting dogs
   e) Decoy lures
   f) Boat, for water birds and crocodile
   g) Horse
   h) Bait, in the hunting of lion and leopard in official game parks and in game farms
   i) Other weapons classified as hunting weapons in the legislation on the subject.

2. The employment of snares, nets, dart and tranquiliser guns is only permitted in the capture of animals destined for research, zoos, museums and for repopulation where approved by the National Directorate of Forestry and Wildlife, and visible signs shall be placed to signal their presence.

Article 48: Firearms for use in hunting

1. A hunter is permitted to use the following firearms for hunting:
   a) Smooth bore shotgun/rifle in the case of small game;
   b) Rifled bore shotgun/rifle, repeating karabiner with chamber larger than 40mm and larger than 6mm calibre, and sights, either open, front or telescopic may be used;
   c) Rifles, either pump action, repeating or semi automatic;
   d) Mixed shotguns with over a 40mm chamber and 6mm calibre;
   e) Tranquiliser and dart guns for the capture of wild animals in terms of the present legislation;
   f) Other firearms as established by a separate diploma.

3. Automatic or semi automatic weapons shall be modified so as to permit the introduction of a maximum of two rounds.

5. The use of weapons for hunting requires a licence from the Ministry of the Interior.
Article 50: Other factors
1. Assistants are considered to be those who assist the hunter named on the license in question and may transport game but may not kill or use firearms.

2. The hunter is solely responsible for the actions of his assistants and those accompanying him, as well as for damages and infractions caused by them during the hunt that they are accompanying.

3. A hunter shall not be accompanied by more than three people.

Article 53
Hunting guide’s permit
1. The National Directorate of Conservation Areas shall have authority to issue the hunting guide’s permit, having consulted with the hunters’ club.

Article 55: Hunting licences
1. Only those holding a valid hunting licence and other legally required documents may hunt [This article contains many other provisions relating to the different types of licences a hunter may acquire].

Article 74: Trophies (Possession and transport of trophies)
1. The possession, transport and marketing of trophies from wildlife species are subject to a manifest from the National Directorate of Forestry and Wildlife or the National Directorate of Conservation Areas for Tourism, depending on where the trophy came from, up to 30 days following the hunting season to which it applies.

2. A trophy manifest consists of the registration of the trophy in the name of the licence holder, and having the site and date of the killing marked on the trophy with indelible ink, subject to the payment of the relevant manifest fee.

3. If the manifest has not been done within the time period referred to in paragraph 1, the trophies may travel within the country under the respective hunting licence.

Article 75: Transformation and manufacture of trophies
1. Any individual or corporate person interested in carrying out the transformation, marketing, preparation or manufacture of trophies shall request the relevant authorisation from the Minister of Agriculture and Rural Development.

2. The Ministry of Agriculture and Rural Development has the competence to inspect trophies, whether transformed or not, with a view to confirming the legality of their origin or of the raw materials used.

Article 76: Movement of trophies
1. The alienation for valuable consideration or for free of any trophy not accompanied by a declaration of the seller in respect of the transfer of manifest, licence or respective transport licence is null and void.

2. The exportation of trophies requires the authorisation of the Minister of Agriculture and Rural Development, without prejudice to other authorisations and procedures required by other bodies.

Article 77: Found trophies
1. Any person who finds a hunting trophy shall submit it in return for a receipt to the Provincial Forestry and Wildlife Services, Provincial Directorate of Tourism or the closest administrative or police authority within 30 days of having found it.

2. Trophies found and handed in as above will be sold at a public auction when they are not considered to be national heritage in terms of the following article, and 20% of the sale value will be given to the finder.

…
Article: 115
Other forestry and wildlife infractions for transgression for which no sanction has been specified in terms of Annex II, the minimum fine as defined in part a) of paragraph 2 of article 41 of law 10/99 of 7th July is applicable.

6. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

The minimum and maximum sentences for each category are provided below, where a minimum and maximum cannot be provided the relative penalty range is provided.

a) Poaching (illegal hunting)
   Punishable by fine between 2000 000, 00 MT to 100 000 000, 00MT

b) Illegal possession
   Punishable by a 1 000 000,00 MT to 20 000 000,00 MT

c) illegal processing of animal material
   Punishable by fine between 2000 000, 00 MT to 100 000 000, 00MT

d) Illegal export
   Punishable by fine between 2000 000, 00 MT to 100 000 000, 00MT

e) Illegal import
   Punishable by fine between 2000 000, 00 MT to 100 000 000, 00MT

f) Illegal supply and sale
   Punishable by a 1 000 000,00 MT to 20 000 000,00 MT

g) Illegal consumption
   NA

h) Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?

27 The Forestry and Wildlife Law (Law 10/99 of 7 July 1999): Article 41(1)
28 The Forestry and Wildlife Law (Law 10/99 of 7 July 1999): Article 41(2)
29 The Forestry and Wildlife Law (Law 10/99 of 7 July 1999): Article 41(1)
30 The Forestry and Wildlife Law (Law 10/99 of 7 July 1999): Article 41(1)
31 The Forestry and Wildlife Law (Law 10/99 of 7 July 1999): Article 41(1)
32 The Forestry and Wildlife Law (Law 10/99 of 7 July 1999): Article 41(2)
Anti-Corruption Law (Law no 6/2004, of 17 June) provides the following:

**Article 7(1):**
The entities mentioned in Article 2 that, on their own or through another person, with such person's consent and approval receive money or any other assets not due to them, in return for performing an action that implies the violation of their duties shall be punished with a prison sentence of between two and eight years.

**Article 8(1):**
The entities mentioned in Article 2 that, on their own or through another person, with such person's consent and approval request or receive money or a promise of money or any other assets or otherwise not due to them, in return for performing an action that does not imply the violation of their duties and forms part of their tasks shall be punished with a prison sentence of up to one year and a fine of up to two months.

The Act also makes provision for various other financial related offences which may be used in relation to wildlife offences.

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6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.

- **a) Corruption**
  Generally a person may be liable to a prison sentence of between two and eight years and a fine of up to one year.\(^{33}\)

- **b) Tax evasion**
  Two to eight years\(^{34}\)

- **c) Fraud**
  Generally a person may be liable to a prison sentence of between two and eight years and a fine of up to one year\(^{35}\)

- **d) Money Laundering**
  A person guilty of money laundering will be liable to a prison sentence of between two and eight years and a fine equivalent of one year.\(^{36}\)

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\(^{33}\) Anti-Corruption Act, Law 6 of 2004


\(^{35}\) Anti-Corruption Act, Law 6 of 2004

\(^{36}\) Anti-Corruption Act, Law 6 of 2004: Article 8
The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).

   Yes
   Accented: 18/12/1990
   Entry into force: 18/03/1991.

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.

   - Animals Protection Act 71 of 1962
   - Nature Conservation Ordinance, 1975
   - Game Products Trust Fund Act 7 of 1997

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

   - Animals Protection Act 71 of 1962
   - Nature Conservation Ordinance, 1975

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

   **Animals Protection Act 71 of 1962**

   **Section 2(1):**
   Any person who:
   (a) overloads, overdrives, overrides, ill-treats, neglects, infuriates torture or maims or cruelly beats, kicks, goads terrifies any animal; or
   (b) confines, chains, tethers or secures any animal unnecessarily or under such conditions or in such a manner or position as to cause that animal unnecessary suffering or in any place which affords inadequate space, ventilation, light, protection or shelter from heat, cold or weather; or
   ...
   (l) except under the authority of a permit issued by the magistrate of the district concerned, sells any trap or other device intended for the capture of any animal, including any wild animal (not being a rodent) or wild bird, to any person who is not a bona fide farmer; or

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(n) Without reasonable cause administers to any animal any poisonous or injurious drug or substance; or

(s) kills any animal in contravention of a prohibition in terms of a notice published in the Gazette under subsection (3) of this section, shall, subject to the provisions of this Act and any other law, be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding twelve months imprisonment without the option of a fine.

Section 11 Offences and penalties in terms of this Act
Any person-
(i) on a first conviction, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
(ii) on a second conviction, to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
(iii) on a third or subsequent conviction, to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Nature Conservation Ordinance, 1975

Section 18: Restriction of right to enter game parks and nature reserves and prohibition, of certain acts therein.

(1) Notwithstanding anything to the contrary in this Ordinance contained, but subject to the provisions of subsection (2) and sections 19 and 21, no person shall without the written permission of the Executive Committee—

(2) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permission granted thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Section 20: Prohibition, of hunting in game parks and nature reserves. (Repealed)

(1) Notwithstanding anything to the contrary in this Ordinance contained, no person shall, without the written permission of the Executive Committee, hunt any animal in any game park or any nature reserve: Provided that a dangerous animal may be killed in defence of a human life or to prevent a human being from being injured.

(2) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition requirement or restriction of any permission granted thereunder, shall be guilty of an offence and liable on conviction—(Act 31/90/1)
(a) to a fine not exceeding R 200 000 or to imprisonment for a period of not exceeding twenty years or to both such fine and such imprisonment if such offence relates to the hunting of any elephant or rhinoceros; or (A 27/86/6)

(b) to a fine not exceeding R20 000 or to imprisonment for a period of not exceeding five years to both such fine and such imprisonment if such offence relates to the hunting of any other specially protected game.

Section 23: Prohibition of hunting in private game parks

(1) Notwithstanding anything to the contrary in this Ordinance contained, but subject to the provisions of Chapter IV, no person shall without the written approval of the Executive Committee hunt any game or any other wild animal or bird in a private game park: Provided that the owner of the land concerned may at any time hunt any game or any other wild animal or bird on such land, except specially Protected and Protected game.

…

(4) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of any approval granted in terms of this section shall be guilty of an offence and liable on conviction-

(a) to a fine not less than One thousand one hundred and fifty rand and not exceeding two thousand five hundred rand or to imprisonment for a period of not less than two years and not exceeding six years or to both such fine and such imprisonment if such relates to the hunting of specially offence protected game;

(b) to a fine not less than seven hundred and fifty rand and not exceeding one thousand five hundred rand or to imprisonment for a period of not less than twelve months and not exceeding three years or to both such fine and such imprisonment if such offence relates to the hunting of any other game or wild animal.

Section 26: Hunting of specially protected game.

(1) No person other than the lawful holder of a permit granted by the Executive Committee shall at any time hunt any specially protected game.

…

(3) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of a permit granted in terms this section shall be guilty of an offence and liable on conviction to a fine not exceeding R 6000 or to imprisonment for a period not exceeding six years or to both such fine and such imprisonment. (A 27/86/8 (a); Act 31/90/2)

Section 27: Hunting of protected game.

(1) No person other than the lawful holder of a permit granted by the Executive Committee shall at any time hunt any protected game.

…

(3) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, or restriction of a permit granted in terms this section, shall be guilty of an offence, and liable on conviction to a fine not exceeding R 4 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment (A27/86/9(a))
Section 28: Hunting on Administration property.

(1) (a) Subject to the provisions of Chapter IV no person shall, without the written permission of the Cabinet, hunt any huntable game, huntable game bird or exotic game or any other wild animal on any land, including communal land, owned by the Government of the Territory or a representative authority.

(c) Any person who contravenes or fails to comply with any provision of paragraph (a) or any condition, requirement or restriction of any written permission granted thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding R 4 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

Section 33: This Section deals with the hunting of huntable game, any contravention of these provisions will be an offence in terms of this ordinance.

Section 36: Hunting for the sake of trophies, and possession and export of trophies.

(1) (a) Notwithstanding anything to the contrary in this Ordinance contained, the Executive Committee may allow any person from any country or territory under a permit granted by the Executive Committee to hunt the species of game, and the number (but not exceeding two) of each such species determined by the Executive Committee and mentioned in such permit, in the Territory for the sake of trophies.

(b) For the purposes of paragraph (a) any game that has been shot at by virtue of a permit granted under that paragraph, and that was wounded when thus being shot at, shall in all respects be regarded as having been hunted by virtue of such permit. (suspended by section 2 (a) Ordinance 16/80)

(2) Subject to the provisions of section 49 no person shall without the written permission of the Executive Committee import any trophies into the Territory or export any trophies from the Territory.

(2A) (a) No person shall manufacture any articles either wholly or partially from a trophy or trophies for the purposes of sale unless he is licensed under this section as a manufacturer of articles from trophies.

(b) No person shall sell, offer for sale or display for the purposes of sale any trophies or adapted trophies unless he is licensed under this section as a seller of trophies and adapted trophies.

(c) The licences contemplated in paragraph (a) and (b) shall be issued by the executive committee in the prescribed fees.

(d) The licences required under this subsection shall not in lieu of but supplementary to any other permit, licence, registration, approval, permission or exemption required by law. ((2A-suspended by sec.2 (b) Ord.16/80))

(3) No person, other than the lawful holder of a permit granted by the Executive Committee, shall be in possession of any elephant tusk or rhinoceros horn or any portion of an elephant tusk or rhinoceros horn: Provided that the provisions of this subsection shall not prohibit any person from being in possession of-

a) the tusk of any elephant or the horn of any rhinoceros which he has lawfully hunted or imported into the Territory in accordance with the provisions of this Ordinance;

(b) any portion of an elephant tusk or rhinoceros horn which has lost its original identity as a result of a bona fide manufacturing process.
(4) Any elephant tusk or rhinoceros horn found in the Territory as res nullius shall be the property of the state and shall be disposed of as the Cabinet may determine from time to time. (A 27/86/14 (b))

(5) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of a permit, licence or permission granted in terms of this section, shall be guilty of an offence. (suspended by section 2 (c) Ordinance 16/80)

Section 40: (1) (a) Subject to the provisions of this Ordinance, no person shall without a permit granted by the Executive Committee intentionally-

(i) kill game or any other wild animal by any means other than by shooting with a firearm;

(ii) capture game or any other wild animal by means of a snare, pitfall, trap, springtrap, net, birdlime, drug or any other device or means whatsoever or by any method whatsoever;

(iii) keep game or any other wild animal.

(4) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permit, approval, permission or exemption granted or any instruction given in terms of this section, shall be guilty of an offence.

Section 41: Capturing, transport and keeping of game for commercial purposes.

(1) Subject to the provisions of sections 40(1) (b) and 40(2) no person shall capture, transport or keep game or any other wild animal for commercial purposes unless he is licensed as a game dealer: Provided that the provisions of this subsection shall by no means prohibit any person who has captured or is keeping game or any other wild animal for commercial purposes in terms of the provisions of section 40(1) (b) or 40(2), from transporting such game for commercial purposes.

(8) Any person who contravenes or fails to comply with any provision of this section, or any Provision, restriction or condition of a licence or an exemption granted in terms of this section shall be guilty of an offence.

Section 43: Use of vehicles and air-craft when hunting and capturing game.

(1) Any person who, during a hunting expedition shoots at game out of or from a moving motor vehicle or an aircraft, or who, for any Purpose whatsoever, including that of filming or photography, wilfully drives game by means of a motor vehicle or an aircraft, shall be guilty of an offence: Provided that the Executive Committee may grant exemption from the Provisions of this section prohibiting him from using motor vehicles and aircraft so to capture, to drive away or to shoot at game, to-

Section 49: Import and export of game and wild animals and their skins.

(1) No person shall import into the Territory or export from the Territory any game or wild animal or the raw skin or raw meat of any game or wild animal except under a permit granted by the Cabinet: Provided that the provisions of this subsection shall not apply in respect of-

(a) the raw skin of any game or wild animal imported into the Territory from the Republic of South Africa;

b) the raw skin on any game carcass which is imported into the Territory or exported from the Territory under a permit granted in terms of this subsection or in accordance with the provisions of paragraph (c);

(c) the raw meat of any game or wild animal imported into the Territory by the person for his own consumption or which has in accordance with the provisions of this Ordinance been lawfully hunted or purchased by or donated to the person so exporting it for his own consumption; (A 27/86/21 (a))
(4) Any person who contravenes or fails to comply with any provision of this section, or any condition, requirement or restriction of any permit granted thereunder or a prohibition or condition imposed under this section, shall be guilty of an offence


Section 1:
Section 20 of the Nature Conservation Ordinance, 1975, is hereby amended by the substitution for subsection (2) of the following subsection: (2) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of any permission granted thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding R200 000 or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment if such offence relates to the hunting of any elephant or rhinoceros; or

[(a)] liable to a fine not exceeding [R6 000] R20 000 or to imprisonment for a period not exceeding [six] five years or to both such fine and such imprisonment if such offence relates to the hunting of any other specially protected game; or

[(b)] (c) to a fine not exceeding [R4 000] R16 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment if such offence relates to the hunting of any other animal.

Section 2.
Section 26 of the Nature Conservation Ordinance, 1975, is hereby amended by the substitution for subsection (3) of the following subsection:

(3) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of a permit granted in terms of this section, shall be guilty of an offence and liable on conviction - a to a fine not exceed in R200 000 or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment if such offence relates to the hunting of any elephant or rhinoceros; or to a fine not exceeding [R6 000] R20 000 or to imprisonment for a period not exceeding [six] five years or to both such fine and such imprisonment if such offence relates to the hunting of any other specially protected game.

5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

a) **Poaching (illegal hunting)**
   - Various; see above at each offence

b) **Illegal possession**
   - Various; see above at each offence

c) **Illegal processing of animal material**
   - Various; see above at each offence

d) **Illegal export**
e) **Illegal import**

- Various; see above at each offence

f) **Illegal supply and sale**

- Various; see above at each offence

g) **Illegal consumption**

- Various; see above at each offence

h) **Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?**

Financial Intelligence Act (Act No. 3 of 2007)

Financial Intelligence Act provides the following in this respect:

"**money laundering**" or "**money laundering activity**" means -

(a) the act of a person who -

(i) engages, directly or indirectly, in a transaction that involves proceeds of any unlawful activity;

(ii) acquires, possesses or uses or removes from or brings into Namibia proceeds of any unlawful activity; or

(iii) conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity

where -

(aa) as may be inferred from objective factual circumstances, the person knows or has reason to believe, that the property is proceeds from any unlawful activity; or

(bb) in respect of the conduct of a person, the person without reasonable excuse fails to take reasonable steps to ascertain whether or not the property is proceeds from any unlawful activity; and

(b) any activity which constitutes an offence as defined in section 4, 5 or 6 of the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004);

**Section 44**: A person who -

(a) knowing or suspecting information is held by the Bank directly or indirectly brings, otherwise than in the course of discharging an obligation under this Act, that information or the fact that that information is held to the attention of another person;
(b) destroys or in any other way tampers with information kept by the Bank for the purposes of this Act;

(c) knowing or suspecting that information has been disclosed to the Bank, directly or indirectly brings information which is likely to prejudice an investigation resulting from that disclosure to the attention of another person;

(d) obstructs, hinders or threatens an official or representative of the Bank in the performance of their duties or the exercise of their powers in terms of this Act;

(e) with intent to defraud. in respect of a document to be produced or submitted under any provision of this Act, makes or causes to be made a false entry or omits to make, or causes to be omitted any entry,

commits an offence and is liable on conviction to a fine not exceeding N$100 000 or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.


The Prevention of Organised Crime Act provides for the forfeiture and seizing of goods that have been involved in organised crime or any proceeds that have been gained from organised crime. Chapter 6 of this Act deals specifically and extensively with the forfeiture of such property.

6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.

a) Corruption

A person found to guilty of corrupt activities in Namibia is liable to a fine not exceeding N$500 000 or to imprisonment for a term not exceeding 25 years, or to both such fine and such imprisonment.\(^{38}\)

b) Tax evasion

liable on conviction to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.\(^{39}\)

The Minister may however, make regulations which prescribe penalties for any contravention thereof or failure to comply, not exceeding N$10 000.\(^{40}\)

c) Money Laundering

A person convicted of money laundering is liable to a fine not exceeding N$100 million, or to imprisonment for a period not exceeding 30 years.\(^{41}\)

\(^{38}\) Anti-Corruption Act 8 of 2003: Section 49

\(^{39}\) Income Tax Act No 24 Of 1981: Section 96

\(^{40}\) Income Tax Act No 24 Of 1981: Section 99

\(^{41}\) Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004);

The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. **Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).**

   Yes
   
   Ratification: 15/07/1975
   
   Entry into force: 13/10/1975.\(^{42}\)

2. **What are the laws that apply to wildlife offences? Please provide the full title of the laws.**

   - National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA)
   
   - GNR.151 of 23 February 2007: Publication of lists of critically endangered, endangered vulnerable and protected species (as amended by *Notice Government Gazette Date* GNR.1187 30568 14 December 2007)
   
   - GNR.152 of 23 February 2007: Threatened or Protected Species Regulations
   
   - GN 756 of 20 July 2009: Marking of rhinoceros horn and hunting of white rhinoceros for trophy hunting purposes (Government Gazette No. 32426)
   
   
   - GNR.151 of 23 February 2007: Publication of lists of critically endangered, endangered vulnerable and protected species (as amended by *Notice Government Gazette Date* GNR.1187 30568 14 December 2007)
   
   - GN 756 of 20 July 2009: Marking of rhinoceros horn and hunting of white rhinoceros for trophy hunting purposes (*Government Gazette* No. 32426)
   
   - GN 456 of 27 May 2011: Norms and standards for hunting methods in South Africa (Government Gazette No. 34326)
   
   - GN 251 of 29 February 2008: National Norms and Standards for the Management of Elephants in South Africa (Government Gazette No. 30833)
   
   - GN 148 of 13 February 2009: Notice in terms of section 57 (2) (*Government Gazette* No. 31899): National moratorium on the trade of individual rhinoceros horns and any derivates or products of the horns within South Africa

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3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

- National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA)
- GNR.152 of 23 February 2007: Threatened or Protected Species Regulations
- GNR.173 of 5 March 2010: Convention on International Trade in Endangered Species (CITES) Regulations (Government Gazette No. 33002)

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

The definition of each wildlife offence is stated below each applicable piece of legislation/regulation.

**National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA)**

**Section 97:** Section 97 allows the Minister (as defined in the Act) to make various regulations/norms and standards. Many of the regulations below are made in terms of Section 97 or section 9 (which is referred to in section 97).

**Section 98(2):** Regulations made in terms of section 97 may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable on conviction to;

(a) imprisonment for a period not exceeding five years;
(b) a fine not exceeding five million rand, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment; or
(c) both a fine and such imprisonment

**Section 101:** Deals with offences generally and states the following:

(1) A person is guilty of an offence if that person contravenes or fails to comply with a provision of;
(a) section 57 (1), 65 (1), 67 (2), 71 (1) or 81 (1);
(b) a notice published in terms of section 57 (2); or
(c) a directive issued in terms of section 69 (2) or 73 (3).

(2) A person who is the holder of a permit is guilty of an offence if that person;
(a) contravenes or fails to comply with a provision of section 69 (1) or 73 (1);
(b) performs the activity for which the permit was issued otherwise than in accordance with any conditions subject to which the permit was issued; or
(c) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of paragraph (a) or (b).

(3) A person is guilty of an offence if that person;
(a) fraudulently alters any permit;
(b) fabricates or forges any document for the purpose of passing it as a permit;
(c) passes, uses, alters or has in his or her possession any altered or false document purporting to be a permit; or
(d) knowingly makes any false statement or report for the purpose of obtaining a permit

Section 102: deals with penalties related to the Act, and states the following:

(1) A person convicted of an offence in terms of section 101 is liable to a fine not exceeding R10 million, or an imprisonment for a period not exceeding ten years, or to both such a fine and such imprisonment.
(2) If a person is convicted of an offence involving a specimen of a listed threatened or protected species, a fine may be determined, either in terms of subsection (1) or equal to three times the commercial value of the specimen in respect of which the offence was committed, whichever is the greater.
(3) Notwithstanding anything to the contrary in any other law, a magistrate’s court shall have jurisdiction to impose any penalty prescribed by this Act.

GNR.152 of 23 February 2007: Threatened or Protected Species Regulation

(Made in terms of section 97 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004)

Regulation 73 deals with offences in terms of the threatened or protected species regulations and states the following:

(1) A person is guilty of an offence if that person;
   (a) undertakes a restricted activity involving a threatened or protected species without a permit;
   (aA) undertakes an activity prohibited in terms of regulations 23, 24, 25, 26, or operates in contravention of sub-regulation 27 (1)
   (b) conducts a captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility or act as a wildlife trader involving specimens of any listed threatened or protected species without being registered in terms of Chapter 3 of these regulations with the issuing authority
   (c) undertakes an activity prohibited in terms of regulations 23, 24, 25 and 26; fabricates or forges any document for the purpose of passing it as a permit or certificate of registration
   (d) alters, erases or in any way tampers with the markings made on elephant ivory or rhinoceros horn in terms of regulation 70.
   (e) permits or allows any other person to undertake any restricted activity, which is an offence, in terms of paragraph (a).
   (f) permits or allows any other person to undertake any restricted activity, which is an offence, in terms of these regulations.

(2) A person registered to conduct a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or to operate as a wildlife trader is guilty of an offence if that person—
   (a) conducts such captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or operates as a wildlife trader in a manner that is not in accordance with any condition subject to which registration was granted; or
(aA) conducts a captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility or acts as a wildlife trader involving specimens of any listed threatened or protected species without being registered with the issuing authority in terms of Chapter 3 of these regulations

(b) Fraudulently alters any certificate of registration issued in terms of regulation 32.

(3) A person who owns a registered game farm is guilty of an offence if—
   (a) that person fraudulently alters any game farm hunting permit issued in terms of regulation 5 (3);
   (b) prohibited activities takes place on the registered game farm; or
   (c) Any conditions of the registration certificate, standing permit or game farm hunting permits were contravened.

(4) Not Applicable.

(5) A person who operates as a registered wildlife trader is guilty of an offence if—
   (a) that person fraudulently alters any personal effects permit issued in terms of regulation 5 (6); or
   (b) any conditions of the registration certificate, standing permit or personal effects permits were contravened.

(6) A person who—
   (a) owns or is in control of an elephant or land on which an elephant roams or is kept, or
   (b) is a management authority of a protected area,

is guilty of an offence if he or she or it fails to comply with the norms and standards issued in terms of section 9 of the Biodiversity Act.

Regulation 74 contains penalties which a person convicted of an offence in terms of regulation 73 may liable to
   (a) imprisonment for a period not exceeding five years;
   (b) a fine not exceeding R5 million, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in
   (c) both instances to both a fine and such imprisonment; or both a fine and such imprisonment

GNR.173 of 5 March 2010: Convention on International Trade in Endangered Species (CITES) Regulations (Government Gazette No. 33002)

- Regulation 10 deals with permits and certificates, it states the following;

10(7): The failure to have the permit cancelled in terms of sub-regulation (5) shall be considered an offence in terms of these Regulations.

(10)(10): Failure to have the export or re-export permit endorsed in terms of sub-regulation (8) shall be considered an offence in terms of these Regulations.

- Regulation 16 deals with offences and penalties in the CITES regulations, and states the following;

(1) No person may—
   (a) import, export, re-export, or introduce from the sea, or attempt to import, export, re-export or introduce from the sea, any specimen of a species listed in the Schedules without a valid permit or certificate issued in terms of these regulations or in violation of any condition of that permit or certificate except in the case of personal effects exempted in terms of regulation 14;
   (b) have in his or her possession or under his or her control, or to offer or expose for sale or display to the public, any specimen of a species listed in the Appendices which was not legally acquired;
(c) make or attempt to make either oral or written false or misleading statements in, or in connection with, an application for a permit or certificate or registration;

(d) alter, deface or erase a mark used by the Management Authority to individually and permanently identify specimens;

(e) obstruct or otherwise hinder an Enforcement Officer in the performance of his or her duties; or

(f) withhold information that is relevant to a case where these Regulations have been contravened;

(g) fraudulently alters any permit or certificate;

(h) fabricates or forges any document for the purpose of passing it as a permit or certificate;

(i) Passes, uses, alters or has in his or her possession any altered or false document purporting to be a permit or certificate; or

(j) Knowingly makes any false statement or report for the purpose of obtaining a permit or certificate.

(2) A person contravening sub-regulation (1) is guilty of the offence and shall be liable on conviction

(a) a fine not exceeding five million rand or imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or

(b) imprisonment for a period not exceeding 10 years; or

(c) in both instances referred to in paragraph (a), both such fine or imprisonment; or in the case of repeated offenders, a fine or imprisonment or both a fine and imprisonment as referred to in (a) above and being banned from ever applying for a permit to trade in CITES listed species again.

5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

a) **Poaching (illegal hunting)**

As seen above, there are various offences in relation to poaching or illegal hunting. Penalties for these offences range between; imprisonment for a period not exceeding five years or a fine not exceeding R5 million, and; a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment.

b) **Illegal possession**

**Minimum:** none

**Maximum:**

Section 102(1) of the National Environmental Management: Biodiversity Act:

‘A person convicted of an offence in terms of section 101 is liable to a fine not exceeding R10 million, or an imprisonment for a period not exceeding ten years, or to both such a fine and such imprisonment.’
‘(2) If a person is convicted of an offence involving a specimen of a listed threatened or protected species, a fine may be determined, either in terms of subsection (1) or equal to three times the commercial value of the specimen in respect of which the offence was committed, whichever is the greater.’

c) **Illegal processing of animal material**

NA

d) **Illegal export**

Minimum: none

Maximum: 

The same provisions under section 102 of NEMBA, as mentioned above, apply here however, the following specific penalties apply under the CITES regulations;

Regulation 16(2);

(a) a fine not exceeding five million rand or imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or

(b) imprisonment for a period not exceeding 10 years; or

(c) in both instances referred to in paragraph (a), both such fine or imprisonment; or in the case of repeated offenders, a fine or imprisonment or both a fine and imprisonment as referred to in (a) above and being banned from ever applying for a permit to trade in CITES listed species again.

e) **Illegal import**

NA

f) **Illegal supply and sale**

Minimum: none

Maximum: 

The same provisions under section 102 of NEMBA, as mentioned above, apply here however, the following specific penalties apply under the CITES regulations;

Regulation 16(2);

(a) a fine not exceeding five million rand or imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or

(b) imprisonment for a period not exceeding 10 years; or

(c) in both instances referred to in paragraph (a), both such fine or imprisonment; or in the case of repeated offenders, a fine or imprisonment or both a fine and imprisonment as referred to in (a) above and being banned from ever applying for a permit to trade in CITES listed species again.
g) **Illegal consumption**

See a) above

h) **Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?**


**Section 4** states: Any person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities and

(a) enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether such agreement, arrangement or transaction is legally enforceable or not; or

(b) performs any other act in connection with such property, whether it is performed independently or in concert with any other person, which has or is likely to have the effect—

   (i) of concealing or disguising the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof;

   (ii) of enabling or assisting any person who has committed or commits an offence, whether in the Republic or elsewhere—

       (aa) to avoid prosecution; or

       (bb) to remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offence,

shall be guilty of an offence

**Section 5: Assisting another to benefit from proceeds of unlawful activities.**—Any person who knows or ought reasonably to have known that another person has obtained the proceeds of unlawful activities, and who enters into any agreement with anyone or engages in any arrangement or transaction whereby—

(a) the retention or the control by or on behalf of the said other person of the proceeds of unlawful activities is facilitated; or

(b) the said proceeds of unlawful activities are used to make funds available to the said other person or to acquire property on his or her behalf or to benefit him or her in any other way,

shall be guilty of an offence.

**Section 6: Acquisition, possession or use of proceeds of unlawful activities.**—Any person who—

(a) acquires;

(b) uses; or

(c) has possession of,

property and who knows or ought reasonably to have known that it is or forms part of the proceeds of unlawful activities of another person, shall be guilty of an offence.
6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.

a) Money Laundering
See above; Section 8 of the Prevention of Organised Crime Act 121 of 1998.

b) Corruption
Penalties related to corruption do apply to wildlife offences; in terms of Section 26 of the (1) any person who is convicted of an offence referred to in;

(a) Part 1, 2, 3 or 4, or section 18 of Chapter 2, is liable

(i) in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment up to a period for imprisonment for life;

(ii) in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years; or

(iii) in the case of a sentence to be imposed by a magistrate’s court, to a fine or to imprisonment for a period not exceeding five years;

(b) section 17 (1), 19, 20, 23 (7) (a) or (b) or 34 (2), is liable—

(i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 10 years; or

(ii) in the case of a sentence to be imposed by a magistrate’s court, to a fine or to imprisonment for a period not exceeding three years; or (c) section 28 (6) (b), is liable to a fine of R250 000 or to imprisonment for a period not exceeding three years.

(2) A person convicted of an offence referred to in section 21, is liable to the punishment laid down in subsection (1) for the offence which that person attempted or conspired to commit or aided, abetted, induced, instigated, instructed, commanded, counseled or procured another person to commit.

(3) In addition to any fine a court may impose in terms of subsection (1) or (2), the court may impose a fine equal to five times the value of the gratification involved in the offence.\(^43\)

c) Tax Evasion
Tax evasion laws would apply to wildlife offences/money gained from wildlife offences; The South African Revenue Service has a plethora of penalties which it can impose on an offender.\(^44\) Some of these include:

1. ‘Section 104 makes it an offence to make any false statements in a tax return, or to give SARS false answers if this is done with intent to evade or assist any other person to evade tax. An offender is liable on conviction to a fine or to imprisonment for a maximum of five years.\(^45\)

\(^43\) Prevention and Combating Of Corrupt Activities Act No. 12 of 2004
\(^45\) Ibid note 3 above
2. ‘Section 76 allows SARS to impose a 200% additional tax for evasion or an omission due to carelessness or inadvertence.’\textsuperscript{46}

d) Document Fraud

See above at (b): Corruption

\textsuperscript{46} Ibid note 3 above
8. Tanzania’s Legislation and Policy Related to Wildlife Crime

The following questions are key research questions which the Environmental Investigation Agency has outlined:

<table>
<thead>
<tr>
<th>1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).</th>
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<tbody>
<tr>
<td>Yes</td>
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<tr>
<td>Ratified: 29/11/1979</td>
</tr>
<tr>
<td>Entry into force: 27/02/1980</td>
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</tbody>
</table>

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<tr>
<th>2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.</th>
</tr>
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<tbody>
<tr>
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<th>4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Wildlife Conservation Act 2009</td>
</tr>
</tbody>
</table>

The following provisions create significant wildlife offences under this piece of legislation in Tanzania:

**Section 20:** Any person who contravenes any provision of these Regulations or makes any false statement in any application or other document or to any authorized officer performing any function under the Act or any subsidiary legislation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

**Section 17:** (1) A person shall not possess a firearm, bow, arrow or any other weapons in a game reserve without the written permission of the Director previously sought and obtained.

(2) A person who contravenes subsection (1) commits an offence and on conviction shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

**Section 19:** (1) A person shall not, save with the permission in writing of the Director, previously sought and obtained and in the manner specified in writing, hunt, burn, capture, kill, wound or molest any animal or fish in any game reserve, game controlled area or wetlands reserve.

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(2) Any person who contravenes the provisions of this section or any condition attached to any authority granted under subsection (1), commits an offence and on conviction shall be liable –

(a) in the case where the conviction relates to the hunting, capture or killing of an animal specified in Part I of the First Schedule to this Act, to imprisonment for a term not less than five years but not exceeding ten years and the court may, in addition thereto, impose a fine of five hundred thousand shillings but not exceeding two million shillings;

(b) in the case where the conviction relates to the hunting, capture or killing of an animal specified in Part II of the First Schedule to this Act, to imprisonment for a term of not less than two years but not exceeding five years and the court may, in addition thereto, impose a fine of not less than three hundred shillings but not exceeding five hundred shillings;

(c) in the case where the conviction relates to the hunting, capture or killing of an animal specified in Part III of the First Schedule to this Act, to imprisonment for a term of not less than one year but not exceeding three years and in addition the court may impose a fine of not less than one hundred thousand shillings but not exceeding one million shillings; and

(d) in the case of any other offence, to a fine of not less than two hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term of not less than one month but not exceeding six months.

Section 20: (1) Any person shall not within any game reserve, wetlands reserve or game controlled area –

(a) dig, lay, or construct any pitfall, net, trap, snare or use other device whatsoever, capable of killing, capturing or wounding any animal;

(b) carry or have in his possession or under his control any weapon in respect of which he fails to satisfy the Director that it was intended to be used for a purpose other than hunting, killing, wounding or capturing of an animal;…

Section 24: (1) Any person who without the permission of the Director previously sought and obtained, cuts or burns vegetation, hunts, captures, wounds, injures, molest or kill any protected species in species management area, commits an offence and on conviction shall be liable –

(a) in the case of a conviction for hunting, capturing or killing a protected animal, to imprisonment for a term of not less than three years but not exceeding seven years or to payment of a fine of not less than twice the value of the animal hunted, killed or captured or to both.

(b) in any other case, to a fine of not less than one hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term of not less than three months but not exceeding two years.

Section 26: (1) A person shall not, except by and in accordance with the written permission of the Director, previously sought and obtained, hunt, kill, capture, wound or molest any national game.

(2) A person who contravenes any condition attached to any permission granted under subsection (1), commits an offence and shall be liable on conviction –

(a) in any case where the conviction relates to the hunting capture or killing of a national game, to a fine not less than twice the value of the animal hunted, killed or captured or to imprisonment for a term of not less than one year and not exceeding five years; and

(b) in any other case, to a fine of not less than three hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of not less than twelve months but not exceeding three years.

Section 27: The Minister may, by order in the Gazette, prohibit, restrict or regulate the hunting, killing or capture of any animal or class of animals in any area during such period as he may specify in such order and such period so specified is hereinafter referred to as "closed season."
Section 47: Any person who - (a) not being a holder of a hunting licence, hunts, kills or wounds any specified animal or scheduled animal; or (b) being a holder of a hunting licence, hunts, kills or wounds – (i) a specified animal or a scheduled animal of a species, category, type or description other than that specified in the licence; (ii) a number of specified animals or scheduled animals larger than those authorised by the licence; or (iii) a specified animal or scheduled animal in an area other than the area specified in the licence, commits an offence and on conviction - (aa) in the case where the conviction relates to the hunting or killing of an animal specified in Part I of the First Schedule to this Act, to imprisonment for a term of not less than three years but not exceeding ten years and the court may in addition thereto, impose a fine of an amount not less than twice the value of the animal hunted or killed; (bb) in the case where the conviction relates to the hunting or killing of an animal specified in Part II of the First Schedule to this Act, to imprisonment for a term of not less than two years but not exceeding five years and the court may in addition thereto, impose a fine not less than twice the value of the animal hunted or killed; (cc) in the case where the conviction relates to hunting or killing of an animal specified in Part III of the First Schedule to this Act, to imprisonment for a term of not less than twelve months but not exceeding three years and in addition thereto, the court may impose a fine not less than twice the value of the animal hunted or killed; or (dd) in the case where the conviction relates to wounding of an animal, to a fine of not less than twice the value of the animal or imprisonment for a term of not less than twelve months.

Section 55: (1) A person shall not without the written authority of the Director previously sought and obtained, hunt, kill or wound any animal regardless of the fact that the animal is not specified in any of the Schedules to the Act. (2) Any person who contravenes the provisions of this section commits an offence and on conviction shall be liable to a fine of an amount not less than twice the value of the animal hunted, killed or wounded or to imprisonment for a term not less than one year but not exceeding five years or to both.

Section 56: (1) A person shall not hunt or kill the young of any animal or any female animal which is apparently pregnant or which is accompanied by its young. (2) A person who holds a licence, permit or written authority to hunt an animal of any species, hunts the young of that species or the female of that species which is apparently pregnant or is accompanied by its young, unless the hunting of such young or such female is expressly authorised by the licence, permit or written authority, commits an offence and shall be liable on conviction to a fine of not less than twice the value of such animal or to imprisonment for a term of not less than three years or to both. (3) Any person who hunts or kills the young of an animal or any female animal which is apparently pregnant without a permit, license or written authority, commits an offence and shall be liable on conviction to a fine of not less than twice the value of such animal or to imprisonment for a term of not less than five years or to both.

Section 61: Contravention of licence provisions (3) Any person who contravenes any of the provisions of subsection (1), commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand shillings but not exceeding one million shillings or to imprisonment not less than two years but not exceeding five years or to both.

Section 64: (1) The Director shall, by order in the Gazette, prescribe the type or class of weapons to be used for the hunting of any particular species of animals. (2) Where an order under subsection (1) has been made, any person who hunts any animal or class of animals by means of any weapon prohibited by such order for use in the hunting of animals of that species or any weapon other than of the type or class authorised by such order for use in the hunting of animals of that species commits an offence and shall be liable on conviction to a fine of an amount not less than twice the
value of the animal hunted or to imprisonment for a term of not less than one year but not exceeding two years or to both.

Section 79: (1) A person who is in possession of any trophy or manufactured trophy and does not hold a certificate of registration in respect of the trophy or manufactured trophy, commits an offence and shall be liable on conviction to a fine of not less than twice the value of the trophy or imprisonment for a term not less than one year but not exceeding five years or to both: Provided that in any proceedings for an offence under this subsection the accused shall be entitled to be acquitted if he satisfies the court that-
   (a) that since the commencement of the proceedings he has lawfully obtained a certificate of registration of the trophy or manufactured trophy; or
   (b) that a period of ninety days has not expired between the date when he first acquired or obtained the trophy or manufactured trophy and the date of the institution of the proceedings or the date when the trophy or manufactured trophy was seized by an authorised officer in the course of an investigation resulting in the proceedings, whichever date first occurred.

(2) A person who transfers to any other person any trophy or manufactured trophy where a certificate of registration does not exist at the date of the transfer and any person who accepts such transfer of any trophy or manufactured trophy commits an offence and shall be liable on conviction to a fine of not less than twice the value of the trophy or to imprisonment for a term not less than one year but not exceeding five years or to both.

(3) A person who transfers any trophy or manufactured trophy to any other person without handing over to the transferee the certificate of registration in respect of a transfer of a trophy or manufactured trophy and any transferee who accepts the transfer to himself of any trophy or manufactured trophy without obtaining the certificate of registration, commits an offence and shall be liable on conviction to a fine of not less than twice the value of the trophy or manufactured trophy or imprisonment for a term not less than one year but not exceeding three years or to both.

Section 84: (1) A person who sells, buys, transfers, transports, accepts, Unlawful exports or imports any trophy in contravention of any of the provisions of dealing in this Part or CITES requirements, commits an offence and shall be liable on conviction to a fine of not less than twice the value of the trophy or to imprisonment for a term not less than two years but not exceeding five years or to both.

2) Trophy exported, re-exported or imported in contravention of this Part or the provisions of CITES shall be confiscated.

Section 86: (1) Subject to the provisions of this Act, a person shall not be in possession of, or buy, sell or otherwise deal in any government trophy.

(2) A person who contravenes any of the provisions of this section commits an offence and shall be liable on conviction-
   (a) where the trophy which is the subject matter of the charge or any part of such trophy is part of an animal specified in Part I of the First Schedule to this Act, and the value of the trophy does not exceed one hundred thousand shillings, to imprisonment for a term of not less than five years but not exceeding fifteen years or to a fine of not less than twice the value of the trophy or to both; or (b) where the trophy which is the subject matter of the charge or any part of such trophy is part of an animal specified in Part I of the First Schedule to this Act, and the value of the trophy exceeds one hundred thousand shillings, to a fine of a sum not less than ten times the value of the trophy or imprisonment for a term of not less than twenty years but not exceeding thirty years or to both.
   (c) in any other case -
      (i) where the value of the trophy which is the subject matter of the charge does not exceed one hundred thousand shillings, to a fine of not less than the amount equal to twice the value of the trophy or to imprisonment for a term of not less than three years but not exceeding ten years;
      (ii) where the value of the trophy which is the subject matter of the charge exceeds one million shillings, to imprisonment for a term of not less than twenty years but not exceeding thirty years and the court may, in addition thereto, impose a fine not exceeding five million shillings or ten times the value of the trophy, whichever is larger amount.

(3) For the purpose of subsection (2)-
(a) in assessing the punishment to be awarded the court shall, where the accused person is charged in relation to two or more trophies, take into account the aggregate value of all the trophies in respect of which he is convicted, and in any such case the provisions of paragraph (a) or (b) of subsection (2) shall apply in relation to all such trophies if anyone of them is part of an animal specified in Part I of the First Schedule to this Act;

(b) in assessing the punishment to be awarded under this section, the court shall calculate the value of any trophy or animal in accordance with the certificate of value of trophies as prescribed by Minister in the regulations; and

(c) in assessing the punishment to be awarded under this section, the court shall calculate the value of any livestock on the basis of the normal price of the livestock on a sale in the open market between a buyer and a seller independent of each other.

Section 103. A person who is found in possession of any weapon or any other object in circumstances which raise a reasonable presumption that he has used or intends or is about to use the same for the purpose of the commission of an offence under this Act, shall, unless he shows lawful cause for such possession, commits an offence, and shall be liable on conviction to a fine of not less than two hundred thousand shillings but not exceeding five million shillings or to imprisonment for a term of not less than one year but not exceeding three years or to both.

Section 104: (1) A person having in his possession, control, custody or care of

(a) any licence, permit, certificate, licence book, permit book, certificate book or other official document granted or issued under, or used for the purposes of this Act;

(b) official mark, stamp or ink used for or in connection with the administration of this Act;

(c) any official uniform or badge approved for use; or

(d) any trophy which is required by any provision of this Act to be delivered to a police officer, wildlife officer, wildlife warden, wildlife ranger, village game scout or which is in his possession by virtue of his holding any public office, shall take all reasonable precautions to prevent the same from falling into the hands or custody of any person not authorised to be in possession and if such person fails to take such reasonable precautions commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand shillings and not exceeding five million shillings or to imprisonment for a term of not less than six months but not exceeding one year or to both.

Section 105: (1) A person who

(a) fraudulently forges, alters or defaces any licence, permit, permit book, written permission or authority granted or purporting to have been granted under this Act;

(b) fraudulently presents any such forged licence, permit, permit book, permission or authority; or

(c) obtains any licence, permit, permission or authority by fraud, misrepresentation of a material fact or by false pretence, commits an offence and shall be liable on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than one year but not exceeding five years or to both.

Section 111: (1) Where a person is convicted of an offence under this Act, Forfeiture the court shall order forfeiture for the Government of

(a) an animal, livestock or trophy in respect of which the offence was committed;

(b) a weapon in the possession or under the control of the accused at the time when the offence was committed, whether or not there is any evidence to show that the weapon was actually employed by the accused in the commission of the offence;

(c) an article or thing used for the storage, processing, preparation, cooking or otherwise dealing with an animal, game meat or trophy in relation to which the offence was committed;

(d) a vehicle, vessel, aircraft, tent, camping equipment or other article or thing in respect of which the court is satisfied that it was used or employed in the commission of the offence or for the conveyance or storage of an animal, game meat or trophy in relation to which the offence was committed or for the conveyance or comfort of the accused while engaged in the commission of the offence; and

(e) in case of a conviction for an offence in relation to a government trophy, a vehicle, vessel or an aircraft in which the government trophy was found.
(2) The court shall order forfeiture in accordance with the provisions of subsection (1), notwithstanding that the vehicle, vessel, aircraft, weapon, article or thing to be forfeited was owned by a person other than the accused: Provided that where on the application of the owner of a weapon, vehicle, vessel or an aircraft the court is satisfied -

(a) that the owner did not know and could not by reasonable diligence have known that the weapon, vehicle, vessel or aircraft was intended by the accused to be used or employed for any of purpose which rendered liability for forfeiture;

(b) that the weapon, vehicle, vessel or aircraft has not previously been used for or in connection with the commission of any offence under this Act; or (c) that having regard to all the circumstances it is just and equitable that the weapon, vehicle, vessel or aircraft not to be forfeited, the court may make no order for the forfeiture of the weapon, vehicle, vessel or aircraft. (3) An animal, livestock, trophy, weapon, vehicle, vessel, aircraft or other article forfeited for the Government under this Act shall be placed at the disposal of the Director.

(4) A trophy or other article, other than a government trophy, placed at the disposal of the Director under this section shall be deemed to be a Government property

5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

a) Poaching (illegal hunting)

As seen above, various poaching (or illegal hunting) offences are created under Tanzanian legislation. Penalties for poaching range between fines of; 100 000 shillings and 1 million shillings, and; imprisonment between 1 month and 5 years.

b) Illegal possession

Various offences relating to possession/sale/transfer and dealing have been created under Tanzanian Law. Penalties for such offences are: fines not less than the amount equal to twice the value of the trophy or to imprisonment for a term of not less than three years but not exceeding ten years; to a fine of a sum not less than ten times the value of the trophy or imprisonment for a term of not less than twenty years but not exceeding thirty years or to both.

c) Illegal processing of animal material

NA – This is covered by forfeiture.

d) Illegal export and Import

Export/import offences: liable on conviction to a fine of not less than twice the value of the trophy or to imprisonment for a term of not less than two years but not exceeding five years or to both.

e) Illegal supply and sale

See Possession above

f) Illegal consumption

NA - See illegal sale of meat provisions above
Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?

As mentioned above the Wildlife Conservation Act provides for forfeiture of animals or animal parts involved in wildlife crime. However, the Anti-Money Laundering Act 12 of 2006 specifically defines poaching as a predicate offence. Accordingly, wildlife crimes will be covered by this piece of legislation. Although this act does provide for offences in relation to money laundering, it does not provide for forfeiture of proceeds of money involved in criminal activity.

The forfeiture of the proceeds of criminal activities is dealt with in terms of the Proceeds of Crime Act (1992). This Act, however, only applies to serious offences as described by the Act.48

<table>
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<th>6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.</th>
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**a) Corruption**

A person will be liable to imprisonment for a term not exceeding ten years or to be a fine not exceeding fifty thousand shillings, or to both such imprisonment and fine.49

**b) Tax evasion**

The Income Tax Act (2006) provides for various offences which involve tax evasion and defrauding the receiver of revenue, all of these having varying penalties.50 For example: Any person who misleads the receiver of revenue which resulted in an underpayment of his or her tax amount then such a person will be liable to a fine not less than 250 000 shillings and not more than 1000 000 shillings and not more than one year imprisonment (or both fine and imprisonment).

**c) Fraud**

Some aspects of fraud are dealt with under corruption legislation and under the income tax law. Fraud is also dealt with extensively under the Tanzanian Penal Code;51 one example of fraud (which is relevant to wildlife crime, is forgery. The Penal code states that a person found guilty of forgery is liable to seven years imprisonment.52

**d) Money Laundering**

Any person guilty of the offence of money laundering will be liable to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or a term of imprisonment not exceeding ten years and not less than five years. If the person is a juristic person then the fine will not exceed one billion shillings and not less than five hundred million shillings or be ordered to pay the amount equivalent to three times the market value of the property.53

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48 Proceeds of Crime Act (1992): Section 6
49 Prevention of Corruption Act No. 16 of 1971: Section 3(1)
50 Income Tax Act: Section 104 - 109
51 Penal Code 1981
52 Tanzanian Penal Code 1981: Chapter xxxv
53 Anti-Money Laundering Act 12 of 2006

The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).

   Yes
   Accented: 18/07/1991

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.

   - The Uganda Wildlife Statute, 1996

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

   - The Uganda Wildlife Statute, 1996

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized/made illegal and provide the full citation of the applicable legal provision.

**Animals (Prevention of Cruelty) Act 1957**

**Section 3:** (1) Any person who (e) kills any animal in an necessarily cruel manner
Will be guilty of an offence of cruelty within the meaning of this act and liable on conviction to a fine not exceeding one thousand shillings or imprisonment for a period not exceeding three months or both such a fine and imprisonment.

**The Uganda Wildlife Statute, 1996**

**Section 22:** (1) Unless provided for by this Statute any person, who in any wildlife conservation area unlawfully:
(a) hunts, takes kills injures, or disturbs any wild plant or animal, or any domestic animal;

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(b) takes, destroys damages, or defaces any object of geomorphological, archaeological, historical, cultural, or scientific interest, or any structure lawfully placed or constructed

c) prepares land for cultivation, prospects for minerals or mines or attempts any of these operations;

d) drives, conveys, or introduces any wild animals into a wildlife conservation area;

e) wilfully, drives, conveys or introduces any domestic animal into a national part or negligently permits any domestic animal, of which he is for the time being in charge, to stray into a wildlife conservation area;

(f) starts or maintains a fire without lawful authority; shall be guilty of an offence.

Section 27: (1) Subject to section 7, the Minister may, on the advice of the Board, make regulations regulating acts or omissions within a wildlife conservation area declared under section 18 of this Statute. (2) The regulations under subsection (1) may include:-

(a) regulation on the use of weapons, traps, firearms, explosives or any other like device;
(b) the conditions under which any person, vehicle, boat or aircraft may enter, travel through, reside or be in a wildlife conservation area;
(c) regulations on the use of lightning picnic fires, lamps, fires or general prohibition on the use of fire in a wildlife conservation area;
(d) control on the disposal or litter or waste;
(e) the keeping of domestic animals in a wildlife conservation area;
(f) control on the introduction of alien species of animals or plants;
(g) control on the use of wildlife resources;
(h) prohibition or control of commercial enterprises within a wildlife conservation area.

(3) A person who commits a breach of the regulation made under subsection (1) commits an offence and is liable, on conviction, to the penalty prescribed in the regulation.

(4) The regulation made under subsection (1) may prescribe corrective measures to be undertaken as a result of a breach or a prohibition and the penalty, including the payment of fines, terms of imprisonment, restitution or compensation, to be imposed for breach of any prohibition in the regulation.

Section 50: (1) Except as may be authorized by the conditions contained in any license issued under Part VI, any person who-

(a) for the purpose of or in connection with hunting or taking of protected species, possesses, prepares, makes, buys, sells or uses any poison, birdlime, trap, net, snare or similar substance or device capable of killing, capturing or wounding, any protected species;

(b) makes, prepares or uses any excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding, any protected species, shall be guilty of an offence.

(2) The onus of proving that an act under this section was done lawfully shall lie on the accused person.

Section 51: Any person who, for the purpose of hunting, taking or assisting another to hunt or take, any wild animal or plant, causes any fire shall be guilty of an offence.
Section 52: Except as may be authorized under a wildlife use right issued under Part VI, or under section 60, any person who hunts any dependent young or any female accompanied by a dependent young of any protected species shall be guilty of an offence.

Section 53: (1) The Board may from time to time, on the recommendation of the Executive Director make regulations specifying the types, sizes, and calibre of weapons which may lawfully be used for hunting any protected species.

(2) A person who contravenes the provision of any regulation made under this section shall be guilty of an offence.

Section 54: Except as may be authorized by the conditions contained in any license issued or wildlife use right granted under this Statute, any person who, during the hours of darkness, hunts or assists in the hunting of any protected species shall be guilty of an offence.

Section 55: (1) Except as provided by subsection (2) or as may be authorized by the conditions contained in any license under this Statute, any person who unlawfully:

(a) discharges any weapon at any protected species from or within fifty metres of any motor vehicle, aircraft, or boat;

(b) uses any motor vehicle, aircraft or boat to drive or stampede any protected species; or

(c) uses any aircraft or radio communication system to locate any protected species for the purpose of hunting it; shall be guilty of an offence.

(2) Nothing in subsection (1) shall prohibit the use of a motor vehicle, aircraft or boat for the purpose of driving off any wild animal from the land or water upon which an aircraft is about to land or take off.

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(c) uses any aircraft or radio communication system to locate any protected species for the purpose of hunting it;
shall be guilty of an offence.

(2) Nothing in subsection (1) shall prohibit the use of a motor vehicle, aircraft or boat for the purpose of driving off any wild animal from the land or water upon which an aircraft is about to land or take off.

**Section 56.** (1) The Board may, on the recommendations of the Executive Director, make regulations:

(a) prohibiting the use of any domestic animal as an aid to hunting any protected species; or

(b) specifying the conditions under which any domestic animal may be used to hunt any protected species.

(2) Any person who contravenes the provisions of any regulation made under this section shall be guilty of an offence.

**Section 57:** (1) The Board may from time to time, on the recommendations of the Executive Director, make regulations:

(a) prohibiting or controlling the use of baits, decoys, calling devices, hides, blinds, stands, or any other substances or devices to bring protected species into closer range of hunters;

(b) specifying the conditions under which any substance or device may be used to hunt any protected species;

(c) prohibiting or controlling hunting in the vicinity of salt licks, water holes or isolated water places used by wild animals;

(d) specifying procedures which may hunter may be required to follow after killing any protected species.

(2) Any person who contravenes the provisions of any regulation made under this section shall be guilty of an offence.

**Section 64:** (1) Any person who in any circumstances wounds any protected animal and fails without reasonable cause, to use all reasonable endeavor to kill such animal or report to an officer at the earliest opportunity, shall be guilty of an offence.

(2) Subsection (1) shall not be construed as authorizing any person to follow any wounded animal:

(a) into a conservation area unless the person holds a wildlife use right, a license or a permit authorizing him to hunt the animal in the areas, or

(b) onto private land on which the person has no permission to enter.

(3) Any person who believes that he has wounded any protected animal which in such wounded condition has entered a conservation area shall immediately report the facts to an officer who shall as he sees fit, decide whether or not the animal should be killed and the officer shall issue instructions accordingly.

(4) Any person who believes that he has wounded any protected animal which in such wounded condition has entered private land upon which he has no permission to enter shall immediately report the facts to the owner of the land.

(5) The owner of land who receives a report under subsection (1) shall decide whether or not the person making the report is to be permitted to enter his land for the purpose of hunting the animal, and the landowner's decision in this regard shall be final.

**Section 66:** The Executive Director may, subject to section 68 issue to any person a permit in the prescribed form, to import or to export or to re-export any specimen.

**Section 67:** Any person who imports, exports or re-exports or attempts to import, or re-export any specimen:-
(a) except through a customs post or port;

(b) without producing to a customs officer a valid permit to import, to export or to re-export the specimen;

shall be guilty of an offence.

**Section 68:** (1) The Minister may, after consulting the Minister responsible for trade make regulations imposing additional restrictions on imports, exports, re-exports or transit of specimen and for the purposes of such regulations the Minister may incorporate the requirements under any convention or treaty.

(2) Any person who contravenes the regulations made under subsection (1) shall be guilty of an offence.

**Section 76:** Any person who is convicted of an offence involving,

(a) taking, hunting, molesting, or reducing into possession any protected species; or

(b) possession of, selling, buying, transferring or accepting in transfer specimen of protected species;

(c) contravention of provisions of this Statute which provide for the conduct of a licensee under a professional hunter's license or a professional trapper's license;

(d) Contravention of section 27 of this Statute; shall be liable to a fine of not less than one million shillings or to imprisonment for a term of not more than 5 years or both, and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence.

**Section 77:** Any person who is convicted of an offence under section 67 or 68 under regulations made under section 68 shall be liable to a fine of not less than ten million shillings or to imprisonment for a term or not less than seven years, and in any case the final shall not be less than the value of the specimen involved in the commission of the offence.

**Section 78.** If any person is convicted of an offence under this Statute in respect of any excavation, fence, enclosure or any other device fixed in or on the ground or upon vegetation, which the person has made, used or had in his possession for the purpose of hunting in contravention of this Statute, the court shall, in addition to any other penalty imposed, order the device to be destroyed or obliterated in such manner as the court may specify, and any expenditure incurred, if any, shall be recoverable from the person as a civil debt.

**Section 79.** (1) On the conviction of any person of an offence under this Statute where the court considers forfeiture to be necessary, the court shall, notwithstanding any other written law and subject to the provisions of section 75 and in addition to any other penalty imposed, declare any specimen, domestic animal or any firearm or other weapon, trap, net, poison, material or any motor vehicle, aircraft, boat, or any other article taken by or used in connection with the commission of the offence to be forfeited to the Government.

(2) Upon the conviction of any person of an offence referred to in section 67, the court may, in addition to any other penalty imposed, declared any specimen, domestic animal or article as specified under subsection (1) to be forfeited to the Government.

(3) The disposal of any specimen, domestic animal or article forfeited to the Government under this section shall be subject to the provisions of section 83 to 86 of this Statute.
5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including:

a) **Poaching (illegal hunting)**

As seen above, various offences relating to illegal hunting have been created. Penalties for these hunting offences are a fine of not less than one million shillings or to imprisonment for a term of not more than 5 years or both, and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence.

b) **Illegal possession**

See hunting offences.

c) **Illegal processing of animal material**

NA – See illegal sale offences and penalties

d) **Illegal export and import**

Liable to a fine of not less than ten million shillings or to imprisonment for a term or not less than seven years, and in any case the final shall not be less than the value of the specimen involved in the commission of the offence.

e) **Illegal supply and sale**

See hunting offences.

f) **Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?**

Money laundering laws do apply to wildlife crime. Money laundering is defined in the Financial Institutions Act 1 of 2004 as; all activities and procedures designed to change the identity of illegally obtained money so that it appears to have originated from a legitimate source.\(^{55}\) If the proceeds of money obtained in the course of wildlife crime are introduced as legitimate income, this will be considered money laundering.

6. If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.

a) **Money Laundering**

Persons involved in the activity or transactions are be liable to imprisonment for a period not exceeding 15 years or a fine not exceeding Shs2 billion or both.\(^{56}\)

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\(^{55}\) Financial Institutions Act 1 of 2004: Section 130.

\(^{56}\) Anti-Money Laundering Act 2013

The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).

   Yes
   Accented: 24/11/1980
   Entry into force: 22/02/1981.\(^{57}\)

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.

   - Zambia Wildlife Act, No.12 of 1998
   - The Zambia Wildlife (Elephant) (Sport Hunting) Regulations, 2005

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

   - Zambia Wildlife Act, No.12 of 1998
   - Zambia Wildlife (Amendment) Act No. 13 of 2001
   - The Zambia Wildlife (Elephant) (Sport Hunting) Regulations, 2005

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

   **Zambia Wildlife Act, No.12 of 1998**

   **Section 16:** (1) Any person who, without a permit so to do issued under subsection (2) or (3), hunts, or disturbs any wild animal or fish, or who disturbs any birds’ nests in a National Park or who removes any wild animal, fish, bird's nest, stone, vegetation or other object whether animate or inanimate from a National Park shall be guilty of an offence.

   **Section 18:** (1) Any person who, without the consent of the Director-General or without just cause or excuse, drives, conveys or introduces any wild animal into a National Park or drives or conveys any wild animals out of a National Park, shall be guilty of an offence.

   **Section 21:** Except as is otherwise provided by this Act, any person who, without the consent of the Director-General, removes any wild animal whether alive or dead or any trophy or any vegetation, from any National Park, or causes or permits the same to be so removed, shall be guilty of an offence.

Section 23: Except as is otherwise provided by this Act, any person who, without just cause or excuse, is in possession of, kills, injures, captures or disturbs, any wild animal or removes or destroys any egg or any nest or habitat of any bird or reptile or fish within the confines of any National Park, shall be guilty of an offence.

Section 26. (1) The president may, after consultation with the authority and the local community, by statutory order, declare any area of land within the Republic to be a Game Management Area for the sustainable utilisation of: wildlife and for the purposes of this Act, and may in like manner, define or alter or extend the limits of any such area or order any such area to cease to be a Game Management Area:

4) Except as otherwise provided by this Act, any person who hunts or is found in circumstances showing that it is his intention to hunt any protected animal shall be guilty of an offence.

Section 71: Any person who, for the purpose of hunting or assisting in hunting any game animal or protected animal, causes any fire or drives or surrounds any game animal or protected animal with fire, shall be guilty of an offence.

Section 72: Except with the written permission of the Director-General, any person who, for the purpose of, or in connection with, hunting or assisting in hunting, any game animal or protected animal, prepares, compounds, sells, buys, uses or has in possession any poison, bird-lime or like injurious substance or any poisoned weapon shall be guilty of an offence.

Section 73: Except with the written permission of the Director-General, or as authorised under any licence issued under Part VII or under any permit issued under this Act or as otherwise provided under this Act, any person who, for the purpose of, or in connection with, hunting any game animal or protected animal, possesses, makes, buys, sells or uses any gin or similar trap or any mist net, snare or similar contrivance capable of killing or capturing any game animal or protected animal shall be guilty of an offence.

Section 74: (1) The Minister may, on the advice of the Authority by regulations, prohibit the hunting of any wild animal, generally, or in any specified area, by means of any game pit, pitfall, trench or other devise fixed to the ground or other specified method, means instrument, weapon, missile or explosive, or may, impose in such regulations such conditions or restrictions as the Authority considers fit in respect of the use of any game pit, pitfall, trench or similar excavation, fence or enclosure or other device fixed to the ground or other specified method, means, instrument, weapon, missile or explosive.

(2) The Minister may, on the advice of the Authority, revoke, amend or alter any regulation made under subsection (1), or the Minister may, suspend, in any area defined in the regulation for any time therein stated, any regulation when it appears reasonably necessary so to do in the interests of good game management, or for the protection of life or property, or for the protection of the health of human beings, animals or plants.

(3) Any person who-

(a) hunts any wild animal in contravention of any regulation made under this section; or

(b) possesses, makes, buys or sells, for the purposes of hunting or assisting in the hunting of any wild animals, any instrument, weapon, missile or explosive, the use of which for such purpose is absolutely prohibited by any regulation made under this section;

shall be guilty of an offence.

Section 75: (1) Any person who drives any game animal or protected animal, other than an amphibious animal, into water for the purpose of incapacitating, killing or capturing that game animal of protected, animal shall be guilty of an offence:
Section 76: (1) Except with the written permission of the Director-General, any person who, during the hours of darkness-

(a) hunts any wild animal; or

(b) for the purpose of or in the connection with hunting or assisting in hunting any wild animal, uses any torch, flare lamp of the type known as a “bulala lamp” or any other artificial light; shall be guilty of an offence.

Section 78: (1) Notwithstanding anything to the contrary in this Act, a person may kill any wild animal in defence of himself or in defence of any other person if it is necessary: Provided that nothing in this subsection shall exonerate any person who, at the time of killing any wild animal in self-defence or in defence of any other person, was committing an offence under this Act.

Section 81: (1) Any person who, in any circumstances whatsoever wounds any dangerous animal and fails without reasonable cause to use all reasonable endeavour to kill the animal at the earliest possible opportunity shall be guilty of an offence…

Section 86: Any person who, in the course of trade, buys, sells or processes or otherwise deals in any trophy, or manufactures any article from any readily recognisable part of it, except in accordance with a permit so to do, issued under this Act shall be guilty of an offence…

Section 93: (1) Any person who under any circumstances kills any, elephant or rhinoceros shall, within forty-eight hours after the date of the killing, produce the ivory or rhinoceros horn of the animal to a wildlife police officer, or to such other person as may be nominated in Writing in that regard by the Director-General, for the purpose of weighing and registering the ivory and rhinoceros horn

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

Section 94: (1) Subject to any regulations made under subsection (1) of section eighty-nine, any person who imports ivory or rhinoceros horn into the Republic shall, within forty-eight hours after the date of importation, produce such ivory or rhinoceros horn to a wildlife police officer, or to such other person as may be nominated in Writing in that regard by the Director-General, for the purpose of weighing and registering, the ivory or rhinoceros horn.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

Section 95: (1) If, after such inquiry as the wildlife police officer may consider necessary, the wildlife police officer or other person to whom ivory or rhinoceros horn is produced under section ninety-three or ninety-four, is satisfied that the ivory or rhinoceros horn is lawful property, under this Act, of the person who killed the animal from which it was procured, or is the lawful property of, and has subject to the regulations made under subsection (1)’ of section eighty-nine, been lawfully imported by, the person who produced the same, as the Case may be, the wildlife police officer shall cause it to be weighed, marked and registered in the manner prescribed and shall then return it to the person who produced it for such purpose and shall issue to the person a certificate of ownership in the prescribed form, in respect of it.

(2) If, after such inquiry as is referred to in subsection (1), the wildlife police officer or other person to whom the ivory or rhinoceros horn is produced under section ninety-three or ninety-four is not satisfied that the ivory or rhinoceros horn is the lawful property of the person who produced it, or that it was lawfully imported, as the case may be, he may retain the ivory or rhinoceros horn pending, and for the purposes of, any proceedings which may be instituted in respect of it under this Act:
Provided that if any proceedings are not instituted within three months after the date of production of the ivory or rhinoceros horn, the wildlife police officer or other person, as the case may be, shall weigh, mark and register the ivory or rhinoceros horn, and shall return it to the person who produced it together with a certificate of ownership in respect of it as provided by subsection (1).

(3) No person shall be entitled to compensation of any kind in respect of the retention of any ivory or rhinoceros horn under subsection (2).

**Section 96:** Any person who, by way of gift, sale, purchase or otherwise, transfers or obtains any ivory or rhinoceros horn before it has been weighed, marked and registered under section ninety-five shall be guilty of an offence.

**Section 97:** (1) The provisions of section ninety-two shall apply to any transfer of ownership of ivory, or rhinoceros horn, and in lieu of the endorsement required under subsection (2) of that section, both the transferor and the transferee shall endorse upon the certificate of ownership in respect of the ivory or rhinoceros horn, as the case may be, a memorandum of transaction of transfer of ownership bearing the date of the transaction, and both parties shall sign their names at the foot of the endorsed memorandum.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

**Section 98.** Any trophy to which absolute ownership has not passed to any person under section three, or under any other provision of this Act, shall be a Government trophy for the purposes of this Act.

**Section 99:** (1) Any person who obtains possession of any Government trophy shall, as soon as practicable after obtaining possession of it, make a report of the person's possession of the trophy to the nearest wildlife police officer or such other person as may be nominated in writing in that regard by the Director-General, and shall, if so required, deliver up, within forty-eight hours of such notice, the Government trophy to the wildlife police officer or other person, as the case may be.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

**Section 100:** (1) Any person who unlawfully possesses or who purports to buy, sell or otherwise transfer or deal in any Government trophy shall be guilty of an offence.

(2) For the purposes of this section, possession of any trophy by any person without a certificate of ownership in respect of the trophy shall be prima facie evidence of the trophy being a Government trophy and of the unlawful possession of it by the person.

**Section 101:** Except with the written permission of the Director-General or as is otherwise provided by this Act, any person who possesses, buys or sells any live game or protected animal or meat thereof, or who is found in circumstances showing that it is that person's intention to buy or sell, any live Wild game or protected animal or meat shall be guilty of an offence.

**Section 102:** (1) The Director-General may, in the form prescribed, or issue to any person who is in lawful possession of any game animal (or protected animal or who intends to sell any meat of a game animal or protected animal a certificate of ownership of the game animal or protected animal, or of the meat, as the case may be.

(2) Where the Director-General is satisfied that a certificate of ownership issued under subsection (1) has been issued through error or through the misrepresentation or fraud of any person, the Director-General may revoke the certificate.

(3) Upon the revocation of a certificate under subsection (2), the Director-General shall notify the Licensee in writing of the revocation and the person to whom that certificate of ownership was issued shall cause the certificate to be returned to the Director-General for cancellation.
(4) Any person who fails to comply with subsection (3) shall be guilty of an offence.

**Section 103:** (1) The Minister may, on the advice of the Authority, by statutory instrument:-

(a) control or make subject to any condition the trade in live or game animal or protected animal or the trade in carcases, meat and skins of such animals;

(b) prohibit, limit, control or make subject to any condition, the movement of the meat of any game animal or protected animal from any specified area for any period of time expressed in the order, or may by like order exclude, in respect of any specified area, the meat of any game animal or protected animal, specified in the order, from the provisions of this Part or of any provision of the order.

(2) Any condition imposed by the Minister under subsection (1) may be applicable generally throughout the Republic or may be applicable to the meat of all game animals or protected animals or to all persons, or it may be limited to such specified areas, or to the meat of such specified game animal or protected animal or to such specified classes of persons, as the Minister may on the advice of the Authority determine.

(3) Any statutory instrument made under subsection (1) may, provide that for any contravention of the Regulations a person shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years or to both.

**Section 104:** (1) Any person who sells any game animal or protected animal or any meat of a game animal or protected animal shall, at or of the time of the sale, be in actual possession of a certificate of ownership issued in respect of the game or protected animal or of the meat of a game animal of protected animal as the case may be.

(2) Except as may be otherwise prescribed, every seller shall, upon the sale of any game animal or protected animal or of any meat of a game animal or protected animal, endorse upon the certificate of ownership issued in respect of the game animal or protected animal, or of the meat of a game animal or protected animal, such details of the authority to sell the animal as may be prescribed, and the seller shall deliver up to the buyer the endorsed certificate of ownership, or a note of such certificate and endorsement, in the prescribed form, before or at the time of the delivery of the game animal or protected animal, or of the meat of a game animal or protected animal, as the case may be.

(3) If the seller has not previously delivered to the buyer the endorsed certificate of ownership of any game animal or protected animal or of any meat of a game animal or protected animal, as the case may be, or the prescribed note of such certificate and endorsement as required under subsection (2), the buyer shall, at the time of delivery of the game animal or protected animal or the meat of a game animal or protected animal, under the sale, obtain from the seller the duly endorsed certificate of ownership or other prescribed note of such certificate and endorsement: Provided that this subsection shall not apply to a buyer from authorised commercial outlets.

(4) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence.

**Section 105:** Any person who imports any wild animal or any meat of any wild animal or of any trophy, except in accordance with a valid import permit issued under section one hundred and six shall be guilty of an offence.

**Section 106:** (1) The Director-General may issue to any person a permit in the form prescribed, to import any wild animal or the meat of any wild animal or any trophy, other than ivory or rhinoceros horn, which permit may be subject to any conditions which the Director- General may impose and shall be valid for such time as is specified in the permit:
(2) The Director-General may, with the approval of the Authority, issue to any person a permit, in the form prescribed, to import any ivory or rhinoceros horn, which permit may be subject to any conditions which the Authority may impose and shall be valid for such time as is specified in the permit.

3) Any permit issued under this section shall not be in substitution of any permit or authority to import any wild animal or meat, or any trophy, or ivory or rhinoceros horn, required by or under any other written law; nor shall any such permit be deemed to relieve any person from any restriction on or prohibition of the import of any wild animal, meat, trophy, ivory or rhinoceros horn imposed by or under this Act or any other written law.

Section 107: (1) Any person who imports or who attempts to import any wild animal or meat of any wild animal or any trophy except-

(a) through a customs port of entry;

(b) where the person produced to the customs officer satisfactory evidence that such wild animal, meat or trophy has been lawfully exported from the country of origin; and

(c) where the person produced to the customs officer a valid permit to import the same issued under section one hundred and six; shall be guilty of an offence.

(2) Any person who imports through a customs port of entry any wild animal, meat of any such animal, or any trophy, but who, at the time of such import, is unable to adduce the evidence required under paragraph (b) of subsection (1) or has not in his possession the

Section 111: (1) Any person who exports or attempts to export any wild animal, meat of any wild animal or any trophy, ivory or rhinoceros horn except-

(a) through a customs port of entry; and

(b) under and in accordance with the conditions of an export permit issued in respect of the animal, bird, meat or trophy, ivory or rhinoceros horn under section one hundred and ten;

shall be guilty of an offence.

Section 125: Any person other than a person authorised in Writing by the Director-General, who causes any bush or grass fire within the confines of any National Park, Game Management Area, bird sanctuary or wildlife sanctuary shall be guilty of an offence.

Section 126: (1) Any person who-

(a) obstructs any proper officer, village scout or any honorary wildlife police officer or any duly appointed person in the lawful exercise of any powers conferred by or under this Act;.

(b) refuses to furnish to any proper officer, village scout or honorary wildlife police officer or any duly appointed person, on request, any particulars or information to which the proper officer, village scout, honorary wildlife police officer or duly appointed person is entitled by or under this Act; or

(c) wilfully or recklessly gives to any proper officer, village scout, honorary wildlife police officer or duly appointed person, any false or misleading particulars to which the proper officer, honorary wildlife police officer or duly appointed person is entitled by or under this Act.

shall be guilty of an offence.

(2) For the purposes of this section, the expression" duly appointed person" means any person to
whom duties in connection with the administration of this Act have been delegated by the Authority or Director-General, as the case may be under this Act.

Section 127: (1) Any person, being a person required by or under this Act to keep any register or to furnish any return or information to the Director-General, who-

(a) fails to keep such register or to furnish such return or information as required;

(b) fails to make any entry in such register or to furnish such return or information within the time prescribed; or

(c) with intent to mislead, makes any entry in such register or furnishes any return or information which is false in a material particular; shall be guilty of an offence.

(2) Any person required to surrender a licence or permit under this Act to the Director-General, who fails to surrender such licence or permit, shall be guilty of an offence.

Section 128: Any person who, without lawful authority, alters, defaces, or removes-

(a) any register, index or other official record maintained under this Act or of any order, requirement, regulation or rule made thereunder; or

(b) any entry appearing in any such register, index or other official record; shall be guilty of an offence.

Section 129: Any person who, without lawful authority, alters, forges, utters, fabricates or defaces any licence, permit, authority, certificate, register, return, record or other document, prescribed, issued, furnished or kept under this Act, shall be guilty of an offence.

Section 130: Any person who-

(a) being a person employed for the purposes of this Act, publishes or communicates, without lawful authority, to any other person any information acquired by that person in the course of that person's employment; or

(b) being in possession of any information which, to his knowledge, had been disclosed in contravention of this Act, publishes or communicates that information to any other person;

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twenty thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

Section 131: Except where otherwise expressly provided in this Act, if any person who is convicted of an offence under this Act shall be liable upon conviction-

(a) for a first offence, to a fine of not less than five thousand penalty units but not exceeding fifty thousand penalty units or a term of imprisonment not exceeding seven years, or to both;

(b) for a second or subsequent offence, to a fine not less than ten thousand penalty units or to a term of imprisonment not exceeding ten years, or to both.

Section 132: (1) Where in respect of an offence under this Act-

(a) any person has been arrested by a proper officer or honorary wildlife police officer, or informed by a proper officer or honorary wildlife police officer that there is intention, to institute criminal proceedings against that person's for a particular offence; and
(b) a proper officer or honorary wildlife police officer has reasonable grounds to believe that the court which shall try the person referred to in paragraph (a) for the offence shall, on conviction, impose a fine not exceeding three hundred penalty units;

that person may sign and submit to the proper officer or honorary wildlife police officer a document admitting his guilt for the offence and pay to that officer such amount as that officer may determine but not exceeding three hundred penalty units.

(2) The document referred to in subsection (1) when signed and submitted under that subsection, shall forthwith be transferred to the clerk of the court before which such person would otherwise have been charged and tried and shall be entered into the records of the court.

(3) Any proper officer or honorary police officer who fails to remit the admission of guilt fines to the court, shall be guilty of an offence and shall be liable, upon conviction, to imprisonment for a term of not less than six months but not exceeding three years without the option of a fine.

Section 133: (1) Any person who is convicted of hunting, wounding, molesting or reducing into possession any elephant or rhinoceros in and contravention of any provision of this Act shall be liable upon conviction-

(a) for a first offence, to a term of imprisonment of not less than five years but not exceeding twenty years without the option of a fine; and

(b) for a second or subsequent offence, to a term term of imprisonment of not less than five years but not exceeding twenty years without the option of a fine (2) If the court is satisfied that in the case of an offence referred to in subsection (1), that the offence was committed for the purpose of, or in connection with, illegal trafficking in ivory or rhinoceros horn, the offender shall be liable, upon conviction-

Section 134: Except as otherwise expressly provided in this Act, any person who is involved hunting within a National Park contrary to this Act, shall be liable upon conviction-

(a) for a first offence to imprisonment, without the option of a fine, for a term of not less than one year but not exceeding ten years without the option of a fine;

(b) for a second or subsequent offence to imprisonment, without the option of a fine, for a term of not less than two years but not exceeding fifteen years.

Section 135: Except as provided by section one hundred and thirty-six, any person who is in possession of, or is selling, buying, importing f or exporting or is attempting to sell, buy, import or export, any meats of a wild animal or any trophy in contravention of this Act shall be -
guilty of an offence and shall be liable, upon conviction, to a fine not exceeding seventy thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

Section 136: (1) Except as otherwise provided in subsection (2) any , person who is in possession of, or is selling, buying, importing or exporting, any protected animal or the meat or any trophy of a protected animal, in contravention of this Act, shall be guilty of an offence and shall be liable, upon conviction, to imprisonment without the option of a fine for a term not exceeding seven years.

(2) Any person who is in possession of, or is selling, buying, importing or exporting any prescribed trophy in contravention of this Act shall be guilty of an offence and shall be liable upon conviction-

(a) for a first offence, to imprisonment, without the option of a fine, for a term of not less than five years but not exceeding ten years; and
(b) for a second or subsequent offence, to imprisonment without the option of a fine, for a term of not less than seven years but not exceeding fifteen years.

**Section 137:** Except as otherwise provided in this Act, any person who is convicted of an offence under Part VIII or Part IX shall be liable upon conviction to a fine not exceeding twenty thousand penalty units or to a term of imprisonment not exceeding six months or to both.

**Section 138:** Where any person is convicted of an offence under this Act in respect of any game-pit, pitfall, trench, or similar excavation, fence or enclosure, or other device fixed to the ground, which such person has made, used, or had in the possession of that person for the purpose of hunting in contravention of the provisions of this Act the court shall, in addition to any other punishment, order such game-pit, pitfall, trench, excavation, fence, enclosure or device to be destroyed or obliterated in such manner as the court may specify, and any expenditure incurred on account of such order shall be recoverable from such person as a civil debt to the Authority.

**Section 139:** (1) Upon the conviction of any person of an offence under this Act, the court shall, at the request of the prosecution, in addition to any other penalty imposed, declare any wild animal, meat or any trophy, firearm or other weapon or any trap, net, poison, material or article, or, subject to subsection (2) to (8) inclusive, any vehicle, aircraft, boat or other conveyance with which the offence was committed, or which was used in, or for the purpose of, or in relation to, or in connection with, the commission of the offence, to be forfeited without compensation and shall order the same to be disposed of as the Authority considers fit:

Provided that in relation to an offence to which sections one hundred and thirty-three, one hundred and thirty-four or subsection (2) of section one hundred and thirty-six applies, the court shall in every case, order the forfeiture of the wild animal, meat of the wild animal or any trophy or any firearm or any other weapon or any tent or dazzling light which was the subject of the offence or with which the offence was committed as the case may be, or which was used in or for the purposes of, or in relation to, or in connection with, the commission of the offence.

(2) Where the prosecution requests a declaration of forfeiture under subsection (1) in respect of any vehicle, aircraft, boat or other conveyance, the court shall make an order (hereinafter referred to as a conditional order), to the effect that unless any person other than the convicted party claims, under this section, any right of ownership in the vehicle, aircraft, boat or other conveyance within three months of the date referred to in subsection (5), the prosecution may apply to the court ex parte for a declaration for forfeiture under subsection (1), and the court shall make the declaration.

(3) Upon the making of a conditional order under subsection (2), the Director-General shall, within one month thereafter, cause to be published in the *Gazette and* in at least one issue of a newspaper in general circulation in the place where the offence was committed, a notice of the making of the order, which notice shall be in the form prescribed, or, if no such form is prescribed, in a form approved by the court.

(4) If under any written law requiring the registration of the vehicle, aircraft, boat or other conveyance referred to in subsections (1) and (2), the vehicle, aircraft, boat or other conveyance is registered in Zambia in the name of any person other than the person convicted, the Director-General shall, within seven days after publication of the notice in the *Gazette* cause a copy to be sent by registered post in a sealed envelope addressed to the person at the address appearing on the register, and the certificate of registration of the letter shall be conclusive evidence of service of the notice upon such person.

(5) Any person who claims any right of ownership in any vehicle; aircraft, boat or other conveyance may, Within three months after the making of the conditional order referred to in subsection (2), serve upon the Director-General and lodge with the clerk of the court an application in writing for the discharge of the conditional order setting out the claim of ownership in the vehicle, aircraft, boat or other conveyance as the
case may be; whereupon the clerk of the court shall fix a date, not less than one month after the lodgment of the application for a hearing and shall within seven days after the lodgment, cause notice of the hearing of the application to be served upon the Director-General.

(6) In any proceedings brought under subsection (5) the onus of proof shall be on the applicant and no order discharging the conditional order shall be made unless the applicant has adduced evidence and proved to the satisfaction of the court that the applicant was not in any way privy to the offence and that the vehicle, aircraft, boat or other conveyance was, at the time of the commission of the offence, being used for such purpose without the knowledge or consent of the applicant and without any negligent disregard on the part of the applicant, of its use by the convicted person.

(7) Where upon any application made under subsection (5), the court is satisfied that the vehicle, aircraft, boat or other conveyance, as the case may be, is owned jointly by the claimant has discharged the onus of proof prescribed by subsection (6), the court shall declare forfeited all of the estate or interest of the convicted person in and to the vehicle, aircraft, boat or other conveyance, as the case may be or all of the rights therein accrued to him under the hire-purchase Act and order the estate, or interest or rights to be disposed of as the Authority may consider fit.

(8) Except with the consent of the Authority, any right vested in any claimant under any hire-purchase agreement or pursuant to the Hire Purchase Act to repossess any vehicle, aircraft, boat or other conveyance which is subject to a conditional order made under subsection (2), shall be suspended pending the determination of any application brought under subsection (5) and in the event of the court declaring the rights therein accrued to the convicted party to be forfeited, the accrued right to repossess the vehicle, aircraft, or boat shall not be exercisable against the Government or the Authority.

Section 139: (1) Upon the conviction of any person of an offence under this Act, the court shall, at the request of the prosecution, in addition to any other penalty imposed, declare any wild animal, meat or any trophy, firearm or other weapon or any trap, net, poison, material or article, or, subject to subsection (2) to (8) inclusive, any vehicle, aircraft, boat or other conveyance with which the offence was committed, or which was used in, or for the purpose of, or in relation to, or in connection with, the commission of the offence, to be forfeited without compensation and shall order the same to be disposed of as the Authority considers fit:

Provided that in relation to an offence to which sections one hundred and thirty-three, one hundred and thirty-four or subsection (2) of section one hundred and thirty-six applies, the court shall in every case, order the forfeiture of the wild animal, meat of the wild animal or any trophy or any firearm or any other weapon or any tent or dazzling light which was the subject of the offence or with which the offence was committed as the case may be, or which was used in or for the purposes of, or in relation to, or in connection with, the commission of the offence.

(2) Where the prosecution requests a declaration of forfeiture under subsection (1) in respect of any vehicle, aircraft, boat or other conveyance, the court shall make an order (hereinafter referred to as a conditional order), to the effect that unless any person other than the convicted party claims, under this section, any right of ownership in the vehicle, aircraft, boat or other conveyance in which the offence was committed, or which was used in, or for the purpose of, or in relation to, or in connection with, the commission of the offence, the prosecution may apply to the court ex parte for a declaration for forfeiture under subsection (1), and the court shall make the declaration.

(3) Upon the making of a conditional order under subsection (2), the Director-General shall, within one month thereafter, cause to be published in the Gazette and in at least one issue of a newspaper in general circulation in the place where the offence was committed, a notice of the making of the order, which notice shall be in the form prescribed, or, if no such form is prescribed, in a form approved by the court.

(4) If under any written law requiring the registration of the vehicle, aircraft, boat or other conveyance referred to in subsections (1) and (2), the vehicle, aircraft, boat or other conveyance is registered in Zambia in the name of any person other than the person convicted, the Director-General shall, within seven days after
publication of the notice in the Gazette cause a copy to be sent by registered post in a sealed envelope addressed to the person at the address appearing on the register, and the certificate of registration of the letter shall be conclusive evidence of service of the notice upon such person.

(5) Any person who claims any right of ownership in any vehicle, aircraft, boat or other conveyance may, Within three months, after the making of the conditional order referred to in subsection (2), serve upon the Director-General and lodge with the clerk of the court an application in writing for the discharge of the conditional order setting out the claim of ownership in the vehicle, boat, aircraft or other conveyance as the case may be

(6) In any proceedings brought under subsection (5) the onus of proof shall be on the applicant and no order discharging the conditional order shall be made unless the applicant has adduced evidence and proved to the satisfaction of the court that the applicant was not in any way privy to the offence and that the vehicle, aircraft, boat, or other conveyance was, at the time of the commission of the offence, being used for such purpose without the knowledge or consent of the applicant and without any negligent disregard on the part of the applicant of its use by the convicted person.

(7) Where upon any application made under subsection (5) the court is satisfied that the vehicle, aircraft, boat or other conveyance as the case may be, is owned jointly by the claimant and the convicted party, or is the subject matter of a hire-purchase agreement between the claimant and the convicted, and the claimant has discharged onus of proof prescribed by subsection (6), the court shall declare forfeited all of the estate or interest of the convicted person in and to the vehicle, aircraft, boat or other conveyance as the case may be or all of the rights therein accrued to him under the hire-purchase agreement or pursuant to the Hire-purchase Act and order the estate, or interest or rights to be disposed of as the Authority may consider fit.

(8) Except with the consent of the Authority, any right vested in any claimant under any hire-purchase agreement or pursuant to the Hire Purchase Act to repossess any vehicle, aircraft, boat or other conveyance which is subject to a conditional order made under subsection (2), shall be suspended pending the determination of any application brought under subsection (5), and in the event of the court declaring the rights therein accrued to the convicted party to be forfeited the accrue right to repossess the vehicle, aircraft or boat shall not be exercisable against the Government or the Authority.

Section 140: (1) Where a trophy, firearm, or other weapon, trap, net, poison or instrument, or any vehicle, aircraft, boat, conveyance, material or article is seized under this Act, or any other written law, in relation to or in connection with the commission of any offence under this Act, and-

(a) the person suspected of having committed the offence is unknown;

(b) the person suspected of having committed the offence cannot be found for the purpose of service of the process of the court charging that person with the offence; or

(c) having been served with such process, the person suspected of having committed the offence fails to appear in answer to the charge;

The Director-General may, one month after publication of a notice of intention to apply for a court order for forfeiture in one issue of a newspaper of general circulation in the district in which the offence is alleged to have been committed, apply by way of original application, ex parte, to the court for an order declaring the trophy, firearm or other weapon, trap, net, poison or instrument, or any vehicle, aircraft, boat, conveyance, material or article, as the case may be, to be forfeited without compensation and ordering it to be disposed of as the Authority may consider fit.

(2) If any person claims any right of ownership in any vehicle, aircraft, boat or other conveyance, to which a notice published under subsection (1) applies, the person may, within one month after the date of publication,
lodge with the clerk of the court a notice of claim of ownership and serve a copy of the notice upon the Director-General, and the provisions of subsection (4) to (8) of section one hundred and thirty-nine shall apply, with the necessary modifications, to the claim of ownership.

(3) If any wild animal or meat of any wild animal is seized under this Act, or of any other written law, in relation to or in connection with the commission of any offence under this Act, or such other written law, the Director-General may apply to the court by way of original application, ex-parte, for an order for the immediate disposal by sale or otherwise of the animal or meat, and the court may order the sale and in the event of a sale of the animal or meat the proceeds shall be held by the Director-General pending the determination of any proceedings brought in respect of the offence and shall be dealt with by the Director-General as the court may direct or, if the person suspected of having committed the offence is unknown or cannot be found for the purposes of service of the process of the court, subsection (1) shall apply with necessary modifications to the proceedings.

Section 141: Where any licensee under any licence, or any holder of any permit or authority, issued under this Act, is convicted of any offence under this Act, the court shall, in addition to any penalty imposed, order the person to surrender forthwith to the Director-General the licence, permit or authority, as the case may be, to be dealt with by the Director-General in accordance with the applicable relevant provisions of this Act.

Section 142: Upon the payment of a fine imposed under this Act for any offence under this Act, there shall be paid into the general fund of a community resources board within whose area the offence was committed such portion of such fine as the Minister may on the advice of the Authority and after consultation with the Minister responsible for finance, by regulation prescribe.

5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

a) Poaching (illegal hunting)

As seen above, there are a variety of hunting offences created in Zambia. Penalties for such crimes include:

• Hunting elephant or rhino: 1st offence: term of imprisonment of not less than five years but not exceeding twenty years without the option of a fine. 2nd Offence: term of imprisonment of not less than five years but not exceeding twenty years without the option of a fine

• Hunting in National Park: 1st offence; to imprisonment, without the option of a fine, for a term of not less than one year but not exceeding ten years without the option of a fine. Second offence; for a term of not less than two years but not exceeding fifteen years.

b) Illegal possession

General Penalties: Except where otherwise expressly provided in this Act, if any person who is convicted of an offence under this Act shall be liable upon conviction-
(a) for a first offence, to a fine of not less than five thousand penalty units but not exceeding fifty thousand penalty units or a term of imprisonment not exceeding seven years, or to both;
(b) for a second or subsequent offence, to a fine not less than ten thousand penalty units or to a term of imprisonment not exceeding ten years, or to both.
c) **Illegal processing of animal material**

See illegal sales and supply below.

d) **Illegal export and Import**

Crimes relating to trafficking: shall be liable, upon conviction, to a fine not exceeding seventy thousand penalty units or to imprisonment for a term not exceeding seven years, or to both. Trafficking involving protected animals) for a first offence, to imprisonment, without the option of a fine, for a term of not less than five years but not exceeding ten years. For a second or subsequent offence, to imprisonment without the option of a fine, for a term of not less than seven years but not exceeding fifteen years.

e) **Illegal supply and sale**

See trafficking penalties above

f) **Illegal consumption**

See illegal sale penalties above

The following questions are key research questions which the Environmental Investigation Agency has outlined:

1. Is the subject country a Party to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)? Please choose YES or NO and list the year of joining CITES (if applicable).

   Yes
   Accented: 19/05/1981
   Entry into force: 17/08/1981.58

2. What are the laws that apply to wildlife offences? Please provide the full title of the laws.

   - Parks and Wild Life Act 14/1975
   - Parks and Wild Life (General) Regulations. 1981
   - Trapping of Animals (Control) Acts 34/1973
   - Protection of Wild Life (Indemnity) Act 21/1989
   - Parks and Wild Life (General) (Amendment) Regulations 1986 (No. 1)
   - Control of Goods (Import and Export) (Wildlife Regulations, 1982)
   - Parks and Wild Life (Payment for Hunting of Animals and Fish) Notice. 1987

3. Which of the laws listed in Q.3 above are criminal laws i.e. impose criminal liability for wildlife offences?

   - Parks And Wild Life Act 14/1975
   - Parks and Wild Life (General) Regulations. 1981
   - Trapping of Animals (Control) Acts 34/1973
   - Control of Goods (Import and Export) (Wildlife Regulations, 1982)

4. What is/are the definition of the wildlife offence/s under the applicable laws? Please list the activities that have been criminalized / made illegal and provide the full citation of the applicable legal provision.

   **Parks and Wild Life Act 14/1975**

   **Section 24**: Prohibition and regulation of certain acts in national parks
   (1) Unless authorized thereto in terms of section twenty-three, no person shall;

(a) pick any plant in a national park; or
(b) hunt any wild life or take or destroy the nest thereof in a national park; or
(c) sell:
   (i) any animal or any part of an animal which has been hunted in or has died in or has been removed from a national park; or
   (ii) any fish caught in a national park; or
   (iii) any plant picked in a national park; or
(d) except in terms of such regulations as may be prescribed:
   (i) introduce into or convey in a national park any weapon or explosive or any prescribed article; or
   (ii) introduce into or convey or allow in a national park any animal, including a domestic or domesticated animal; or
   (iii) remove from a national park any animal or any part of an animal; or
   (iv) fish in any waters in a national park or remove from the park any fish caught in the waters of the park.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment

Section 33: Control of hunting in and removal of animals or animal products from a sanctuary and sale of animals or animal products
(1) No person shall;
   (a) hunt any animal in a sanctuary; or
   (b) remove any animal or any part of an animal from a sanctuary; or
   (c) sell any animal or any part of an animal which has been hunted in or has died in or has been removed from a sanctuary; except in terms of a permit issued in terms of section thirty-four.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment

Section 38: Control of hunting in and removal of animals or animal products from a safari area and sale of animals or animal products
(1) No person shall—
   (a) hunt any animal in a safari area; or
   (b) remove any animal or any part of an animal from a safari area; or
   (c) sell any animal or any part of an animal which has been hunted in or which has died in or which has been removed from a safari area; except in terms of;
      (i) such regulations as may be prescribed for such safari area; or
      (ii) a permit issued in terms of section thirty-nine.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment

Section 45: Control of hunting of specially protected animals and possession or sale of specially protected animals and products thereof;
(1) No person shall;
(a) hunt any specially protected animal; or
(b) keep, have in his possession or sell or otherwise dispose of any live specially protected animal or the meat or trophy of any such animal; except in terms of a permit issued in terms of section forty-six.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment

Section 47: Trophies of specially protected animals which are State trophies
(1) Subject to subsection (2), the trophy of any specially protected animal killed or found dead shall be deemed to be a State trophy.
(2) Subsection (1) shall not apply in respect of the trophy of any specially protected animal which:
   (a) has been killed in terms of a permit issued in terms of section forty-six; or
   (b) was in lawful captivity immediately before its death.

(3) Subject to the proviso to subsection (1) of section sixty-three, any person who takes possession of any trophy which is a State trophy in terms of subsection (1) shall, as soon as possible and in any event within seven days, surrender such trophy to the appropriate authority for the land on which it was found or to the nearest convenient office of the Authority or police station or to the local authority for the area concerned.

(4) Any person who contravenes subsection (3) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

Section 59: Control of hunting, removal and sale of live animals and animal products
(1) This section shall not apply to national parks, sanctuaries or safari areas.

(2) Subject to subsection (4), no person shall—
   (a) hunt any animal on any land; or
   (b) remove any animal or any part of an animal from any land or from one place to another on any land; except in terms of a permit issued in terms of paragraph (c) of subsection (4).

(3) Subject to this Act, no person shall sell any live animal or the trophy of any animal except in terms of a permit issued in terms of section seventy-five.

(4) Subject to this Act, the appropriate authority for any land may
   (a) hunt any animal on the land; or
   (b) remove any animal or any part of an animal from the land or from one place to another on the land; or
   (c) issue a permit to any person allowing him or any other person or any class of persons to hunt any animal on the land or to remove any animal or any part of an animal from the land or from one place to another on the land.

(5) Any person who contravenes subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment

Section 71: Prohibition of sale of meat of animal unlawfully hunted
(1) Subject to this Act, no person shall sell the meat of any animal which;
   (a) he has hunted; or
   (b) he knows or has reason to believe has been hunted; in contravention of this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment

Section 72: Sale of animal born or hatched and held in captivity

(1) Subject to this Act, any person may;
   (a) kill any animal;
   (b) sell any live animal, or the meat or trophy of any animal; which was born or hatched and has remained in captivity.

(2) The burden of proof of the matters referred to in subsection (1) which would make lawful a killing or sale referred to in that subsection shall, in any prosecution relating to such killing or sale, lie upon the person charged.

Section 73: Sale and manufacture of articles from trophies

(1) No person shall;
   (a) manufacture any article from a trophy or process any trophy; or
   (b) sell, donate or otherwise dispose of any trophy or any article manufactured from a trophy; which has been obtained from an animal which has been hunted in contravention of this Act:
      Provided that this subsection shall not apply in respect of trophies lawfully acquired from the State.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment

Section 74 Purchase of live animals and trophies

(1) Subject to subsection (2), no person shall purchase any live animal or trophy unless he is satisfied that;
   (a) the seller has authority in terms of this Act authorizing him to make the sale; or
   (b) in the case of a live animal, the animal was born or hatched and has remained in captivity; or
   (c) in the case of a trophy, the trophy has been obtained from an animal which was born or hatched and has remained in captivity.

(2) Subsection (1) shall not apply to the purchase of a trophy—
   (a) from a stall at a fete, bazaar or other like function open to the public; or
   (b) in the ordinary course of business from a person who carries on business in a shop, store or other fixed place of business other than domestic premises.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment

Section 79: Environment committee may order cessation of hunting
(1) Where a conservation committee is of the opinion that on any alienated land within its area the hunting of animals is taking place on a scale which is, in its opinion, likely to be injurious to animal populations in the area, it may serve notice in writing on the appropriate authority for the land that;

(a) it proposes to recommend to the Environment Board established in terms of section 19 of the Environmental Management Act [Chapter 20:26] that measures be taken in terms of paragraph (b) of subsection (1) of section seventyseven to restrict hunting on such land of animals generally or of the animals specified in the notice; and

(b) it prohibits, for a period not exceeding fourteen days from the date when the notice is served, the hunting of animals generally or of the animals specified in the notice, as the case may be, on the land concerned.

(2) If so directed by the Natural Resources Board, a conservation committee shall, by notice in writing served on the appropriate authority for the land concerned, extend the period of any prohibition on the hunting of animals on the land concerned in terms of paragraph (b) of subsection (1) for a further period not exceeding fourteen days.

(3) Any person who hunts any animal on any land in contravention of any notice served on him in terms of subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Section 128: Special penalty for certain offences
Notwithstanding any other provision of this Act, any person who is guilty of an offence under this Act involving;

(a) the unlawful killing or hunting of a rhinoceros, or any other specially protected animal specified by the Minister by statutory instrument; or

(b) the unlawful possession of, or trading in, ivory or any trophy of a rhinoceros or of any other specially protected animal that may be specified by the Minister by statutory instrument;

Shall be liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment.

Parks and Wild Life (General) Regulations. 1981

Section 56 (2) No person shall-
(a) make, or be party to the making of, any false entry in a register; or
(b) falsify a return required in terms of subsection (3) of section 60 or subsection (1) of section 68; or (c) refuse to produce any register, trophy, certificate of ownership or permit for inspection when required to do so in terms of section 82.

Section 104: any person guilty of hunting regulations will be liable to; on a first conviction, to a fine not exceeding three hundred dollars or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment:

On a second or subsequent conviction, to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding nine months, or to both such fine and such imprisonment: Or in respect of any other offence, to a fine of five hundred dollars or to imprisonment for a period not exceeding nine months, or to both such fine and imprisonment.
in respect of any other offences; to a fine of five hundred dollars or to imprisonment for a period not exceeding nine months, or both such fine and imprisonment.

**Trapping of Animals (Control) Acts 34/1973**

This Act deals with the trapping of wild animals and contains many offences which outlaw various methods and devices used to trap wild animals; these penalties include the following:

**Possession of trap:** fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.\(^59\)

**Contravention of licence provisions:** LIABLE to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.\(^60\)

**Sale of parts in contravention with the Act:** liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.\(^61\)

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5. What are the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for wildlife offences? Please provide the full citation of the applicable legal provision. If the penalties vary amongst different offences, please provide the prescribed penalty for each offence including

\[\text{a}) \quad \text{Poaching (illegal hunting)}\]

**Minimum:** fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

**Maximum:** in respect of fine not exceeding level eight or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

\[\text{b}) \quad \text{Illegal possession}\]

**Possession of protected species:** fine not exceeding level eight or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

\[\text{c}) \quad \text{Illegal processing of animal material}\]

See b) above

\[\text{d}) \quad \text{Illegal export and Import}\]

Unlawful possession of, or trading in, ivory or any trophy of a rhinoceros or of any other specially protected animal shall be liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment.

\(^{59}\) Trapping of Animals (Control) Act: Section 6

\(^{60}\) Trapping of Animals (Control) Act: Section 10(6)

\(^{61}\) Trapping of Animals (Control) Act: Section 22(3)
e) **Illegal supply and sale**

See b) above

f) **Illegal consumption**

Only deals with the sale of game meat

g) **Do money-laundering laws apply to wildlife offences, i.e., are wildlife offences considered to be predicate (underlying) offences to trigger the applicability of money laundering laws leading to freezing and ultimately confiscating the proceeds of wildlife offences?**

The Bank Use Promotion and Suppression Of Money Laundering Act No.2 of 2004 provides for, inter alia, the suppression of the misuse of the banking system and for seizure and confiscation of unlawful proceeds of crime.

‘Sections 33 and 39 – Provide for the seizure of cash derived from cash detainable offences and unlawful dealings in foreign currency.’

Accordingly it is clear that money laundering laws, which include provisions of search and seizure, would apply to wildlife crime.

6. **If possible, please list the minimum and maximum penalties / sanctions that can be imposed under the applicable laws for related offences such as corruption, tax evasion, document fraud, and money-laundering. Please provide the full citation of the applicable legal provision.**

a) **Corruption**

A public official found guilty of corrupt activities will be liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

b) **Tax evasion**

A person generally contravening tax legislation will be liable to a fine not exceeding level seven or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

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63 Prevention of Corruption Act Ch 9:16

64 Income Tax Act Chapter 23:06
Below is the schedule indicating the value of the relevant fine levels:

**FIRST SCHEDULE (Sections 2 (1) and 280)**

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[Schedule substituted by s.i.134/2007]
ANNEXURE II

Below is are the relevant US dollar exchange rates for each country:

**Exchange Rates at the Time of Completion 31/10/2013**

**Angola:** 1 USD = 97 AOA

**Botswana:** 1 USD = 8.5 P

**Kenya:** 1 USD = 85.12 KES

**Malawi:** 1 USD = 394.99 Kwacha

**Mozambique:** 1 USD = 29.44 MT

**Namibia:** 1 USD = 9.95 N$

**South Africa:** 1 USD = 9.95 Rand

**Tanzania:** 1 USD = 1605.14 TS

**Uganda:** 1 USD = 2525.25 Ugandan shilling

**Zambia:** 1 USD = 5195.99 Zambian Kwacha

**Zimbabwe:** Zimbabwe makes use of US dollars