



WILDLIFE TRADE AND THE IMPLEMENTATION OF CITES IN UGANDA

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WILDLIFE TRADE AND IMPLEMENTATION OF CITES IN UGANDA

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PREFACE

Uganda has ratified a number of international treaties and conventions. Their implementation however, leaves a lot to be desired. An example is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This study, therefore, analyses the incorporation of CITES into national legislation and its institutional implementation in Uganda. It was conducted and prepared by Irene Makumbi and Jacob Manyindo, both Senior Researchers with the Uganda Wildlife Society (UWS). The Uganda Wildlife Society is an environmental advocacy and public policy research organisation. Public policy research equips the Society with the capacity to develop learned positions that will impact environmental policy and legislation in Uganda.

The methodology used to conduct the study included intensive literature research as well as personal interviews with individuals who have vast experience in Uganda's wildlife sector. It is hoped that the study will, in its own modest way, contribute towards the draft CITES Regulations, amendment of wildlife laws and improvement of coordination amongst institutions responsible for CITES and wildlife management.

It should be noted however, that, obtaining information on the wildlife sector in Uganda, especially on trends in legal and illegal wildlife trade and the institutional framework for CITES implementation, was a gruelling task. Official documentation and records on wildlife trade practices, the operations of wildlife institutions and the status of wildlife populations was either scanty or non-existent. For example, annual reports of the Forest Department and the former Game Department, which would ordinarily contain valuable and accurate information on wildlife trade practices and the operations of these institutions, were produced intermittently and often contained inconsistencies.

Also, the surreptitious nature of illegal wildlife trade means that documentation of its past and present existence is scarce. Seizure records of the Game and Customs Departments, Uganda Wildlife Authority (UWA), Uganda Police, and court records, therefore, offer the only meaningful measure of illegal wildlife trade. However, although seizure and court records alone are not indicative of the volume of illegal wildlife trade, they at least provide evidence of its existence. Besides that, in the absence of regulations governing public access to information in Uganda, the parameters of information accessible to the public remains strictly under the control of government officials. The contents of this report are, therefore, a function of the documentation and records we were able to obtain, and of the level of cooperation we received from various individuals and organisations in the wildlife sector.

The drawbacks to obtaining information notwithstanding, this study has attempted to document the trends in legal and illegal wildlife trade over the last several decades and considered the effectiveness of wildlife legislation, policies and institutions in the implementation and enforcement of CITES.

The Uganda Wildlife Society (UWS) would like to thank all the individuals and institutions that contributed substantially towards this report, particularly Apophia Atukunda, Julius Ecuru, Professor Eric Edroma, David Hafashimana, Karl Karugaba, Okaasai Opolot, Justus Tindigarukayo-Kashagire, the Forest Department, the Makerere University Institute of Environment and Natural Resources, the Uganda National Council for Science and Technology (UNCST), and the Uganda Wildlife Authority (UWA).

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EXECUTIVE SUMMARY

This report is composed of eight sections, namely:

Section One is an introduction to the report. It analyses the legal and institutional frameworks that exist for the implementation of CITES in Uganda. Both frameworks have inadequacies that hinder the fulfilment of Uganda's obligations to CITES. The legal framework for instance, is disjointed due to the existence of archaic sectoral laws and policies and the lack of specific legislation for CITES implementation. The institutional framework on the other hand, is beset with poor coordination and operational capacity.

Section Two offers a background to the case study. It illustrates how a combination of its turbulent history and exceptional biodiversity makes Uganda a particularly important signatory to CITES, and how Uganda's implementation of CITES provisions will contribute greatly to the conservation of unique fauna and flora species and their habitats.

Section Three documents the trends in legal and illegal wildlife trade in Uganda during the 20th Century as a prerequisite to the analysis of the legal and institutional frameworks for CITES implementation in Uganda. It analyses wildlife trade practices, legislation and policies that existed during the 20th Century, with particular attention to the major international wildlife agreements that existed prior to CITES. It, in addition, addresses the history and essence of CITES.

Section Four reviews the major wildlife conventions of the 20th Century.

Section Five focuses on the wildlife sector's legal framework subsequent to Uganda's ratification of CITES. Wildlife legislation and policies in Uganda at the time, adopted a sectoral approach from the Protectorate era. Events in the late 1980s to 1990s introduced the need for regional and international cooperation in the management of natural resources. Following the ratification of CITES, Uganda executed some of the provisions of CITES under the existing law and developed new legislation and policies to further address its obligations under CITES. These laws and policies, therefore, need to be harmonised in order to effectively implement CITES. Although the draft CITES Regulations of 1999 are still to be enacted, this section discusses their provisions and makes recommendations.

Section Six reviews institutions responsible for the management of wildlife resources in Uganda after the ratification of CITES. Wildlife legislation mandated that the management of wildlife resources was to be assigned to separate institutions each governed by separate policies. The implementation and enforcement of CITES provisions in Uganda is, therefore, dependent upon the coordination and competence of these institutions.

Section Seven is a conclusion on the status of the CITES legal and institutional frameworks in Uganda.

Section Eight proposes recommendations based on the inadequacies found to exist in Uganda's CITES legal and institutional frameworks. Laws and practices from other legislative jurisdictions that Uganda may wish to adopt are also suggested.

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- ❖ The Fish and Crocodiles Act, Cap. 228 of 1951 (as amended).
- ❖ The National Parks Act, Cap. 227 of 1952.
- ❖ The Game Preservation and Control Act, Cap.226 of 1959.
- ❖ The National Environment Statute, No. 4 of 1995.
- ❖ The Uganda Wildlife Statute, No. 14 of 1996.
- ❖ The Ratification of Treaties Act, No. 5 of 1998.
- ❖ The Land Act, No.16 of 1998.

LIST OF ACRONYMS

| | |
|----------|---|
| BINP | Bwindi Impenetrable National Park |
| CAMPFIRE | Communal Areas Management Programme for Indigenous Resources |
| CBD | Convention on Biological Diversity |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| COP | Conference of Parties (CITES) |
| DRC | Democratic Republic of Congo |
| EIA | Environmental Impact Assessment |
| ESPU | Endangered Species Protection Unit |
| FD | Forest Department |
| GD | Game Department |
| IUCN | International Union of Conservation of Nature and Natural Resources |
| LMNP | Lake Mburo National Park |
| MFCA | Murchison Falls Conservation Area |
| MFNP | Murchison Falls National Park |
| MGNP | Mgahinga Gorilla National Park |
| MTTI | Ministry of Tourism, Trade and Industry |
| MTWA | Ministry of Tourism, Wildlife and Antiquities |
| MUIENR | Makerere University Institute of Environment and Natural Resources |
| NEMA | National Environment Management Authority |
| NGO | Non-Governmental Organisation |
| NRM | National Resistance Movement |
| PQIS | Phytosanitary and Quarantine Inspection Service |
| QECA | Queen Elizabeth Conservation Area |
| QENP | Queen Elizabeth National Park |
| UNCST | Uganda National Council of Science and Technology |
| UNP | Uganda National Parks |
| USAID | United States Agency for International Development |
| UWA | Uganda Wildlife Authority |
| UWEC | Uganda Wildlife Education Centre |
| UWS | Uganda Wildlife Society |
| UWEC | Uganda Wildlife Education Centre |

SECTION ONE

Introduction

On 16th October 1991, Uganda became a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Subsequently, Uganda used existing legislation and institutions in its efforts to implement the Convention. The legal structures used were basically the wildlife sectoral laws and policies, most of which were antiquated and not conducive to accomplishing Uganda's obligations to CITES. The institutional structure comprised of a single individual, the Chief Game Warden in the Game Department and later the Commissioner of Wildlife who, although not legally designated as such, assumed the roles of the CITES Management and Scientific Authorities for Uganda.

During the 1990s, the wildlife sector in Uganda underwent a restructuring process that resulted in the amalgamation of the Game Department (GD) and Uganda National Parks (UNP) to form the Uganda Wildlife Authority (UWA). Additionally, as a result of this restructuring process, three other institutions were created: the Wildlife Department under the Ministry of Tourism, Wildlife and Antiquities; the Uganda Wildlife Education Centre (UWEC); and the Uganda Wildlife Training Institute.

Additional laws and policies of direct relevance to the wildlife sector were created during the 1990s. Of particular importance are the Constitution of the Republic of Uganda of 1995, the National Environment Statute of 1995, the Uganda Wildlife Statute of 1996, and the Uganda Wildlife Policy of 1995. Furthermore, new forestry legislation, draft CITES regulations, and a draft wildlife policy are in their final stages of development.

Other important institutions created during the 1990s are the Uganda National Council for Science and Technology (UNCST) in 1991 and the National Environment Management Authority (NEMA) in 1995. Additionally, the Commissioner of Wildlife was officially designated the CITES Management Authority in 1999.

The preponderance of information gathered for this research suggests that the current CITES legal and institutional structures in Uganda require changes and additions to facilitate the effective implementation of CITES. The legal structures are disjointed due to the continued use of archaic sectoral laws and policies and the lack of specific legislation for CITES implementation. The institutional framework is beset with poor coordination and operational incapacity.

Therefore, it is our contention that, despite the existence of several laws and policies and the creation of a number of institutions associated with the wildlife sector, the legal and institutional frameworks currently in use to implement CITES in Uganda cannot fulfill its obligations to the Convention. This study analyses these legal and institutional structures and makes recommendations that will better allow Uganda to meet its obligations under CITES.

SECTION TWO

Background

Uganda is a landlocked country lying between latitudes 4.2°N and 1.5°S, and longitudes 28°E and 35°E. It borders Kenya to the east, Tanzania and Rwanda to the south, the Sudan to the north and the Democratic Republic of Congo (DRC) to the west. It covers an estimated total area of 241,020 square kilometres, of which 15.1% is open water, 11% game reserves and national parks and 5.9% forest reserves. Uganda's current population is estimated to be 22 million. Owing to its geographical location, Uganda is a country of exceptional biodiversity. Its geographic features range from glacier-topped mountains, rainforests, and dry deciduous acacia bushland, to wetlands and swamps. Fauna diversity includes 338 species of mammals, 291 species of fish, 149 species of reptiles, 100 species of amphibians, over 1,000 species of birds, and over 1,200 species of butterflies (NEMA, 1999 and FD, 1999). Uganda has 94 recognised vegetation communities stretched across the forest and savannah zones of the country. These vegetation communities include several closed canopy tropical high forest types; montane bamboo; heather and moorland; swamps and wetlands; moist woodlands; and dry bushland and thickets (FD, 1999).

Uganda has a long history of wildlife management and conservation, whose efficacy is a function of its history as a British Protectorate and the nature of its governance since independence. Although pre-independent Uganda was a British Protectorate as opposed to a Colony, its political economy was nonetheless fundamentally based on human and natural resource exploitation at the expense and to the detriment of its indigenous population.

During the Protectorate-era, the protection of species was based on evidence of declining populations, usually caused by European commercial exploitation. This led to the gazetting of animal sanctuaries and controlled hunting areas, which were established to protect specific wildlife species rather than the habitats those species required for their existence (MTTI, 1999). Later, game reserves and national parks were established to thwart the degradation of wildlife habitats and the ensuing decline in species populations.

For the first three decades after independence in 1962, Uganda's political economy was generally characterised by mismanagement largely due to the illogical wholesale adoption of Protectorate-era policies and legislation, the repeated emergence of inept and unaccountable governments, and a general decay in law and order. The abrogation of Uganda's 1962 Constitution by Milton Obote in 1966, heralded the breakdown of constitutional order and set off the post-independence instability that was to plague Uganda for the next two decades. Events in 1966 were followed by the military coup headed by Idi Amin in 1971. *Legal Notice No. 1* of 1971 and *Parliamentary Powers (Vesting) Decree, No.8* of 1971 usurped legislative authority from the Parliament and vested it in the President, to be exercised by decrees. Unaccountable government and anarchy characterised the rule of Idi Amin. The overthrow of Amin's regime in 1979 was greeted with hope for a return to constitutional rule and law and order. But the rigged elections of 1980, that saw the return of Milton Obote to power, led to another period of political turmoil and rebellion. This resulted in the second overthrow of the Obote-led government in 1985 by a military coup led by General Tito Okello. Wildlife management systems and processes in Uganda, both legal and institutional, broke down during this unstable post-independence period. This led to the degradation of natural forests, violation of the protected area system, unprecedented levels of big game poaching, extinction of a number of fauna and flora species, and a general reduction in the diversity of fauna and flora. In 1986, the National Resistance Movement (NRM) under Yoweri Kaguta Museveni, took over power with a military coup. The regime ushered in a period of relative political stability as a result of a popular participatory system of governance called Resistance Councils (RCs). It put in place a constitution-making process, in 1988, which ended in 1995 with the formation of a new Constitution. This brought about a new era of accountability and constitutional rule in Uganda.

Many of the current issues faced by the wildlife sector in Uganda, including the implementation of international wildlife conservation agreements, have their origins in Uganda's past and it is, therefore, difficult to appreciate these issues without tracing how they were shaped by the past. **Section Three** of this report provides an insight into the nature of legal and illegal wildlife trade in Uganda and its effect on wildlife management and conservation efforts within the context of Uganda's turbulent history.

SECTION THREE

Trends in Wildlife Trade in Uganda

3.1 Pre-Independence Wildlife Trade Practices and Laws

European exploration and the subsequent colonisation of Africa during the 19th and 20th Centuries, introduced a whole new meaning to wildlife trade, and consequently, had a major impact on wildlife management and conservation in Uganda.

3.1.1 Pre-Independence Trade in Wild Animals

Before the arrival of the Europeans in Uganda, indigenous authorities and customs regulated the utilisation of wildlife. Wildlife was considered a common resource, but access was carefully controlled. In general, the indigenous use of wildlife resources at the time could be categorised as follows:

- a) Use of plant materials for fuelwood, building poles, food and medicine;
- b) Use of small animals such as fish, birds and insects for food;
- c) Use of large mammals for meat and skins; and
- d) Use of large mammals for commercial trade (e.g. ivory and hides).

The advent of European adventurers and hunters in Uganda at the end of the 19th Century introduced the real commercialisation of wildlife. The definition of “wildlife” at the turn of the 20th century was essentially limited to large mammals, and “game” generally referred to animals that could be shot on licence.

Initially, European adventurers and hunters sought authority from African chiefs and kings to hunt in their areas. However, this authorisation was abused by the over-exploitation of wildlife and trade in its products. It was in recognition of this that the Convention for the Preservation of Wild Animals, Birds and Fish in Africa was signed in May 1900.

The first half of the 20th Century saw increased trade in wildlife, which became a major source of revenue for the Protectorate administration in Uganda. For example, between 1920 and 1924 the Protectorate administration earned £98,048 from the sale of ivory, rhino horn and hippo teeth (Game Department, 1925).

In an effort to control the elephant population, advance conservation and control trade in wildlife and its products, the Protectorate administration established the Game Department (GD) in 1925. Later, land was set aside for animal sanctuaries and controlled hunting areas in line with the 1933 London Agreement for the Protection of the Fauna and Flora of Africa. Subsequently, game reserves were established, followed by the gazettelement of Uganda’s first national park in 1952 (**Table 1**).

Table 1: Wildlife Protected Areas in Uganda

| PROTECTED AREA | AREA (km²) | YEAR OF GAZETTEMET |
|---------------------------------|------------------------------|---------------------------|
| Sanctuaries | | |
| Entebbe | 51 | 1951 |
| Jinja | 32 | 1953 |
| Dufule | 10 | 1959 |
| Mt. Kei | 500 | 1964 |
| Otze | 186 | 1964 |
| TOTAL | 779 | |
| Controlled Hunting Areas | | |
| North Karamoja | 12,310 | 1963 |
| South Karamoja | 7,882 | 1963 |
| Sebei | 1,134 | 1963 |
| West Madi | 749 | 1963 |
| East Madi | 1,764 | 1963 |
| Lipan | 865 | 1963 |
| Karuma Falls | 253 | 1963 |
| Kaiso Tonya | 227 | 1963 |
| Buhuka | 20 | 1963 |
| Semliki Flats | 504 | 1963 |
| Katonga | 2,299 | 1963 |
| Napak | 194 | 1964 |
| East Teso | 534 | 1966 |
| TOTAL | 28,735 | |
| Game Reserves | | |
| Kigezi | 359 | 1952 |
| Toro | 549 | 1959 |
| Katonga | 207 | 1964 |
| Karuma | 678 | 1964 |
| Pian-Upe | 2,152 | 1964 |
| Bokora Corridor | 2,145 | 1964 |
| Matheniko | 1,573 | 1964 |
| Ajai | 160 | 1965 |
| Kyambura | 155 | 1965 |
| Bugungu | 501 | 1968 |
| TOTAL | 8,479 | |
| National Parks | | |
| Murchison Falls | 3,860 | 1952 |
| Queen Elizabeth | 1,978 | 1952 |
| Kidepo Valley | 1,442 | 1962 |
| Lake Mburo | 371 | 1982 |
| Bwindi Impenetrable | 331 | 1991 |
| Mgahinga Gorilla | 33.7 | 1991 |
| Rwenzori Mountains | 996 | 1991 |
| Mt. Elgon Forest | 1,121 | 1993 |
| Kibale Forest | 776 | 1993 |
| Semliki | 221 | 1993 |
| TOTAL | 11,129.7 | |

Source: Ministry of Tourism, Wildlife & Antiquities, 1994 (updated by UWA in 2000)

The National Parks Act of 1952 – which brought into being Uganda National Parks (UNP) – and the Game (Preservation and Control) Act of 1959 – which, among other things, delineated game reserves – were the major laws pertaining to wild animals promulgated by the Protectorate administration. National parks, as opposed to game reserves and other protected areas managed by the GD, were strictly wildlife preservation areas managed by UNP, and in which no consumptive use of wildlife was permitted.

The wildlife protected area system grew significantly during the 1950s and 1960s. This consequently resulted in additional limitations, such as licenced hunting and wildlife utilisation for communities adjacent to protected areas, which meant that indigenous peoples could no longer manage and legally use wildlife resources as before. Conversely, licenced tourist game hunting and export of wildlife specimens and their products continued to flourish in the 1950s and 1960s (**Table 2**).

Table 2: Revenue Derived from Wild Animal Trade from 1957 to 1960

| Selected Revenue Sources | 1957/58 | 1958/59 | 1959/60 |
|---|----------------|----------------|----------------|
| Sale of ivory, rhino horn and hippo teeth | £21,624 | £26,685 | £40,405 |
| Game licences | £13,157 | £12,103 | £17,115 |
| Sale of live animals and game trophies | - | £3,108 | £3,316 |
| Controlled hunting permit fees | - | - | £1,128 |

Source: Game and Fisheries Department Annual Reports, 1958 & 1960

Poaching and illegal wildlife trade was prevalent during the Protectorate era, particularly after the advent of animal sanctuaries, game reserves and national parks. Poaching was generally common in West Nile, Acholi, Lango, Karamoja, Teso and Sebei, but was also regularly reported in Buganda, Tooro, Bunyoro, Busoga, Bugisu and Ankole. Homemade guns, snares and traditional weapons were the usual tools of choice. The killing of white rhinos and trade in their horns during the 1950s, drastically increased as a result of strong efforts to stamp out illegal rhino horn trade in Kenya and Tanganyika (Game & Fisheries Department, 1960). White rhinos in West Nile were killed solely for their horns, which were smuggled into Kenya. Elephants in Karamoja were also killed for their ivory, which was smuggled into the Sudan. Game rangers, the Police and the King's African Rifles were deployed to combat this illegal activity. Another phenomenon that became increasingly common during the Protectorate era was the fact that the majority of licenced hunters frequently exceeded their authorised quota. Licenced hunters were also reported to have often armed others to hunt for them.

3.1.2 Pre-Independence Trade in Wild Plants

No Annual Forestry Report prior to 1929 mentions the existence of a forest policy. In 1928, J. W. Nicholson was appointed Forest Advisor for Kenya and Uganda. His 1929 report on Uganda, "*The Future of Forestry in Uganda*," sets out the first forest policy adopted by the Protectorate Government, namely:

- I. To retain under forests or afforest all areas of land the retention of which under forest is considered necessary on climatic or other indirect grounds.
- II. To meet with due regard to vested rights such as the demands of the population of Uganda as cannot be met by individual or local administrative efforts.
- III. To advise individuals and local native administrations in all matters appertaining to arboriculture or forestry.
- IV. In so far as is consistent with the three preceding objects, to manage the state forests of Uganda so that they will give the best financial returns on the capital invested.

A decade later, the forest policy was amended to meet the commercial interests of the colonialists. It read as follows:

- 1) Reservation by the State of suitably selected areas of land, either already under forest or capable of afforestation, of sufficient extent for the maintenance of climatic conditions suitable for agriculture, for the preservation of water supplies, for the provision of forest produce required in

- agricultural and industrial development or for domestic use, and for the prevention of erosion of land liable to destruction if put to other uses.
- 2) Management of the forest property of the State so as to obtain the best financial returns on its capital value and the expenses of management, in so far as such returns are consistent with the primary objects of management set out above.
 - 3) Encouragement and assistance of forestry undertaken by Native Authorities and private enterprise.
 - 4) Building up by education and propaganda of an understanding among the people of the value of forests to them and to posterity, and the technical education of African foresters.

A new forest policy was developed in 1948 on the lines of the official statement made by the Governor. This policy provided for:

- a) The reservation of an adequate forest estate for protective and productive purposes.
- b) The management of this estate to obtain the best returns consistent with the above Objectives.
- c) Fostering among the people of Uganda a real understanding of the value of forests.
- d) Encouraging the practice of sound forestry by Local Authorities and private enterprise and to educate selected Africans in technical forestry.

Legislation was developed by the Protectorate Government during the 20th Century to control the exploitation of Ugandan forests. Pre-independence forest legislation included:

- ❑ *Protection of Forestry Regulations Act No.3 of 1900*, which prohibited the exploitation of forest products on public land without a permit, set fixed fees for foreigners intending to take products out of the public forests, made the burning of forest or bush an offence, and imposed restrictions on tree cutting on private land (Forest Department, 1951).
- ❑ A series of agreements in 1900 and 1901 between the Protectorate administration and the Kingdoms of Buganda, Tooro and Ankole which ceded control of forests under the management of the Kingdoms to the British Protectorate government.
- ❑ *The Forestry Ordinance Act No.6 of 1903*, which replaced the Forestry Regulations and regulated timber cutting, wild rubber collection and forest produce fees.
- ❑ *The Forests Ordinance Act No.15 of 1913*, which superseded the Forestry Ordinance and, among other things, defined Crown forests and forest produce and prohibited local communities from burning, clearing, cultivating, grazing and residing in Crown forests.
- ❑ *The Amendment Ordinance of 1938*, which defined Native Forest Reserves.
- ❑ *The Export of Timber Ordinance of 1934*, and its successor of 1950, which regulated inspection, grading and marking of timber before export. A legal notice in 1950 prohibited the export from Uganda of more than 25% of the output of mvule and mahogany.
- ❑ *The Forest (Amendment) Ordinance of 1960*, which widened the powers of indigenous authorities over the forests they administered.

Institutionalised forest conservation and wild plant trade in Uganda has its roots in the Scientific and Forestry Department created in 1898. Initially, this Department was mainly concerned with agriculture, experimental farms, meteorology and hydrography (Forest Department, 1951). In 1927 it was renamed the Forest Department (FD) and its focus turned to forest exploitation, a role that was later relinquished to the private sector.

It was not until 1932 that conservation gained genuine value via the formal gazettement and demarcation of forest reserves, and it took another two decades before the forest estate was consolidated to approximately its present range (Forest Department, 1999). The first commercial activity in the forests of Uganda was the collection of wild rubber from *Landolphia* and *Clitandra* vines (Forest Department, 1951). No indigenous utilisation of this product had occurred prior to the arrival of the Europeans. However, annual permits were eventually granted to Africans in an effort to develop a local industry. In 1910, plantation rubber began to drive wild rubber off the world market and by 1919, export of wild rubber had almost ceased (Forest Department, 1951). A total of 294 tons of wild rubber was exported between 1902 and 1919 and was valued at £74,650.

Later, between 1923 and 1929, the Protectorate government traded 2,082,000 cubic feet of timber (Forest Department, 1951). This included mvule, mahogany and other species. Timber trade continued between 1930 and 1950, with exports totalling 11,273,334 cubic feet (Forest Department, 1955). Total timber exports between 1958 and 1960 amounted to 8,689 tons (Forest Department, 1960).

3.2 Wildlife Trade Practices and Laws in the 1960s

The pre-independence institutional framework for wildlife management comprising the Forest Department (FD), Uganda National Parks (UNP) and the Game Department (GD) continued to exist after independence. UNP operated as a Grade One parastatal, which meant that it was run by a strong, distinguished Board of Trustees and was virtually independent of the central government. For example, all revenue realised from tourist activities in the national parks was managed by UNP, whereas the GD was wholly funded and controlled by the central government and any revenue it collected – for instance, that generated by the national zoo – went directly to the national treasury. This, of course, meant that the operations of UNP were facilitated much better than those of the GD.

Additionally, the mutually exclusive functions of consumptive and non-consumptive utilisation of wildlife promoted by the GD and UNP, respectively, occasionally created tension between the game guards/rangers of the two organisations especially at the boundaries of national parks. This tension often culminated in armed clashes at national park boundaries between UNP and GD guards: the former presumed GD guards to be poachers and the latter assumed that UNP guards were attempting to transgress their national park jurisdiction (Justus Tindigarukayo¹, personal communication).

The relationship between UNP and the FD was also often strained. The FD was legally mandated to manage forest reserves in which large mammals such as elephants would occasionally inhabit as part of their migratory patterns. Disputes between UNP and the FD would occur in situations where the FD wanted to cull elephants, which were causing damage to plants in forest reserves (Professor Edroma², personal communication).

Consequently, the inconsistencies and division of responsibility within the wildlife sector's institutional framework were a continuation of the Protectorate-era and could explain some of Uganda's weaknesses in wildlife conservation. The mutually exclusive mandates of UNP and the GD were later determined to be untenable and a merger of the two organisations was proposed. However, the legal framework governing wildlife management in the 1960s continued to be basically what it was before Independence. It primarily comprised the Forests Act of 1947, the National Parks Act of 1952, and the Game (Preservation and Control) Act of 1959.

3.2.1 Trade in Wild Animals in the 1960s

After independence, successive Ugandan governments during the 1960s recognised wildlife trade as a major revenue source and developed this capacity based on the practices, policies and laws of the Protectorate era. For example, whereas revenue from the sale of game licences and ivory earned the Protectorate administration £57,520 in 1960, it earned the Government of Uganda £486,266.83* in 1969 (Game Department, 1960 & 1971). Wild animals were also increasingly recognised as a major source of protein food after Independence, especially in areas where agriculture and livestock grazing were minimal. For example, whereas there is no record of game meat sold in 1960, £108,075.66* worth of game meat and trophies was sold in 1969.

Poaching and illegal wildlife trade in and around national parks became a greater concern during the 1960s. Individual and large groups of poachers killed wild animals for both subsistence and illegal trade purposes. The use of snares by poachers continued to be a major problem as well. The *Uganda Argus* of October 19, 1960 described game poaching in Uganda's two national parks as "a major

¹ Assistant Commissioner for Wildlife in the Ministry of Tourism, Trade and Industry and the National CITES Management Authority.

² Former Director of Uganda Institute of Ecology, Uganda National Parks and Uganda Wildlife Authority. Currently, Dean of the School of Hotel, Tourism and Catering, Nkumba University.

* Converted from Ugandan Shillings to British Pounds at the 1969 rate of £1=US\$2.974 provided by the Bank of Uganda, Research Section.

concern.” In 1960, the Deputy Minister of Finance, Daudi Ochieng, expressed alarm at the declining wild animal populations in Acholi and Karamoja, and also expressed fear that, at that rate, some species would disappear in a few years if urgent action wasn't taken (*Uganda Argus, December 15, 1960*).

3.2.2 Trade in Wild Plants in the 1960s

The forest policy after Independence remained unchanged from the official statement made by the Governor of the Protectorate in 1948.

Official revenue collected from the export of forest products increased steadily during the early 1960s, from £160,000 in 1960 to £293,158 in 1962. After a drop in export revenue in 1964 (£189,661), exports rose again from £328,501 in 1965 to £387,893 in 1967. Additionally, encroachments into forest reserves and the illegal felling of indigenous tree species such as mvule and mahogany continued to be major threats to wild plants in protected areas.

3.3 Wildlife Trade Practices and Laws in the 1970s

The 1970s were undoubtedly the most turbulent and destructive years of Uganda's Independence. The political instability experienced during the first decade of Independence culminated in a military coup led by Idi Amin in 1971. Constitutional rule collapsed, not least because the military regime vested all legislative matters in the President to be exercised by decrees.

One of the first legislative changes introduced by the military government in 1971 was the enactment of several Statutory Instruments involving amendments of the Second and Seventh Schedules of the Game Act, which allowed for an increase in supplementary licence fees with respect to Visitors and Professional Hunters and Trappers Licence fees. This resulted in a drop in resident basic game licences issued and an increase in permits issued to tourist hunters (Game Department, 1971).

Other legislative changes concerning wildlife trade introduced during the 1970s included, among others:

- ❑ *Statutory Instrument No. 56: The Game (Preservation and Control) (Amendment of First and Second Schedules) Order, 1972* – which transferred the leopard from the Second to the First Schedule of the Act, thereby prohibiting the hunting of leopard under Supplementary Licence.
- ❑ *Decree No. 3 of 1972*, which amended the Game (Preservation and Control) Act with the aim of improving the implementation of some of its provisions. The Decree prescribed a maximum period of tenure in office of Honorary Game Wardens, substituted the word “trophy” for “ivory and rhinoceros horns” in Sections 15 and 19 of the Act, and reduced the period within which to report from 14 to 7 days under Sections 20 and 35 (Game Department, 1972). The Decree also amended the period of validity of a game licence from any one year to a calendar year, and made Supplementary Licences valid in all areas of Uganda, irrespective of where they were issued.
- ❑ *Legal Notice No. 1 of February 1974*, which proclaimed a six weeks' amnesty requiring all persons in illegal possession of ivory, rhino horn, hippos teeth, leopard and lion skins, to hand them to the government.
- ❑ *Decree No. 5 of February 1974*, which regulated the burning of grass in forest reserves usually carried out by hunters and honey collectors, but which unfortunately, caused a great deal of damage to forest reserves.
- ❑ *Decree No. 13 of 1975*, which altered the Game (Preservation and Control) Act and barred transfer of legally obtained ivory from hunter to buyer; terminated the Minister's powers to waive the Government's rights to ownership of ivory acquired in contravention of the provisions of the Game (Preservation and Control) Act, in self-defence or by accident; and made it mandatory that all privately-owned ivory revert to the Government.
- ❑ *Decree No. 14 of 1975* amended the Economic Crimes Tribunal Decree by transferring the trial of the offence of killing an elephant to the Military Tribunal. Anyone convicted of the offence was liable to suffer death by firing squad and anyone found in illegal possession of ivory was liable to imprisonment for terms not less than ten years.
- ❑ *Statutory Instrument No. 2 of 1980*, which introduced the ban on hunting that had been in force since August 1st 1979.

3.3.1 Legal Wildlife Trade in the 1970s

Post-independence efforts by the Government of Uganda to maximise consumptive and non-consumptive utilisation of wildlife as a revenue source continued into the 1970s. For example, the government employed the Canadian International Development Agency (CIDA) to amend the forestry policy, which created a policy that was dominated by commercial interests (Forest Department, 1974). It can also be argued that although the two primary duties of the Game Department – “(a) to manage and conserve wildlife...for the benefit of this and future generations and (b) to protect man, his livestock and crops from marauding game”³ – did not explicitly refer to extractive wildlife utilisation, this was nonetheless a major source of revenue for government.

The sale of hunting licences and the killing of elephants for recreational, control and cropping purposes, along with the concomitant sale of elephant ivory, trophies and meat, provides a core perspective into the nature and scope of legal wildlife trade in Uganda during the 1970s.

Between 1970 and 1973, the total number of animals killed on licence increased by an average of approximately 45% each year, with the licenced killing of elephants increasing by an average of 37% each year (Table 3). With the exception of the increase in 1971, the number of elephants in Uganda killed for control, cropping and other purposes varied minimally between 1970 and 1973 (Table 4).

Table 3: Animals Killed on Licence in the 1970s

| Year | No. of Elephants Killed on Licence | Total No. of Animals Killed on Licence |
|------|------------------------------------|--|
| 1970 | 237 | 2,398 |
| 1971 | 355 | 2,810 |
| 1972 | 444 | 3,454 |
| 1973 | 602 | 6,737 |
| 1974 | 521 | 2,599 |
| 1975 | 236 | 2,755 |
| 1976 | - | 2,278 |
| 1977 | - | 417 |
| 1978 | - | 175 |
| 1979 | 4 | 68 |

Source: Game Department, 1971 – 1979

In 1968, Sir Richard Laws conducted research whose results suggested that elephant populations in Uganda were too high and thereby causing overcrowded habitats, malnourishment, and habitat destruction (Professor Edroma, personal communication). Consequently, Laws recommended the cropping of elephants in Uganda.

As a corollary to this report, the UNP Board of Trustees employed Rob Malpas to study elephant health in Murchison Falls National Park (MFNP) in 1973 (Professor Edroma, personal communication). This study involved the examination of elephant bone marrow and intestines and, therefore, a decision was taken to kill 90 elephants in north MFNP, 90 elephants in south MFNP, and 90 elephants in QENP as a control group. After the elephants were killed, the meat was sold and distributed to local communities.

The increase in the number of elephants killed under licence between 1970 and 1974 could be partly explained by the research conducted by Laws and the subsequent study by UNP on elephant health. The research conducted by Laws gave impetus to those within government who wanted to increase revenue from hunting fees and the sale of ivory. The reasons for the UNP study notwithstanding, the decision to kill 270 elephants could have been viewed as a corroboration of Laws' conclusion that the elephant population in Uganda was too high.

Subsequently, in 1974, Government acknowledged the rapid decline in elephant population and a ban on licenced elephant hunting was introduced in 1975. The Government also acknowledged that, as had been the case for decades before, many licenced hunters in the early 1970s were killing more animals than they were permitted to. Therefore, between 1975 and 1979, licenced animal killing was

³ Dr. W. B. Banage, Minister of Animal Resources, Annual Report of the Game Department, 1971.

restricted and very few elephants were legally killed, including for control and cropping purposes (Table 4).

Table 4: Animals Killed for Control, Administrative, Scientific and Cropping Purposes in the 1970s

| Year | No. of Elephants Killed | Total No. of Animals Killed |
|------|-------------------------|-----------------------------|
| 1970 | 530 | 3,467 |
| 1971 | 725 | 2,622 |
| 1972 | 579 | 2,469 |
| 1973 | 499 | 2,945 |
| 1974 | 195 | 1,322 |
| 1975 | 104 | 1,292 |
| 1976 | 21 | 1,626 |
| 1977 | 21 | 4,726 |
| 1978 | 13 | 4,879 |
| 1979 | 4 | 799 |

Source: Game Department, 1970 – 1979

As a result of the aforementioned increase in supplementary licencing fees, government revenue from the sale of licences and permits increased from 638,288.50 shillings in 1970 to 820,776.45 shillings in 1971 (Game Department, 1971). The GD Annual Report for 1971 further indicates a marked decrease in total revenue in 1971 as a result of a sharp drop in earnings from the sale of ivory and a decline in revenue from the sale of game meat and trophies (Table 5). The explanation given for the drop in revenue in both cases was the discontinuation of killing of elephants and other animals for control purposes necessitated by the limited supply and late delivery of ammunition. Additionally, GD annual reports for the subsequent three years indicate that total revenue from wildlife trade declined progressively as a result of the sharp drop in revenue collected from ivory, game meat and other trophies. Again, the explanation given was the cessation of animal cropping compelled by the shortage of transport and ammunition being experienced by the Game Department (GD) at the time.

However, statistics on elephants killed provided by the same reports (Tables 3 and 4) do not support the official explanations for the decline in total revenue earned from wildlife trade between 1970 and 1974. The number of elephants killed for control, administrative, scientific and cropping purposes was highest in 1971, while the number of elephants killed on licence between 1970 and 1973 increased by an average of 37% per annum and the total number of animals killed on licence increased by 45% per annum. These deficient explanations raise questions about the authenticity of Government statistics on elephants killed for control or cropping and under licence, and on the income earned from wildlife trade in the 1970s.

Total revenue from trade in wildlife in 1975 reportedly increased compared to the previous two years, due to price increases for auctioned ivory and live animals sold for overseas export (Table 5). The extent to which the aforementioned Decree Nos. 13 and 14 of 1975 influenced this increase in revenue was not elucidated in the GD annual reports. On the other hand, between 1976 to 1979, there was a distinct decrease in total annual revenue from wildlife trade due to the 1975 ban on licenced elephant hunting and lower revenues from the sale of licences, ivory, game meat and trophies, reportedly as a result of a shortage of ammunition. The plummet in total revenue experienced in 1977 and 1979 was attributed to the meagre earnings realised from ivory auctions and the hunting ban of 1979, respectively (Game Department, 1977 & 1979).

Table 5: Uganda Government Revenue from Wildlife Trade in the 1970s

| Year | Licences & All Permits (Shs) | Ivory, Rhino Horn, etc. (Shs) | Game Meat and Trophies (Shs) | TOTAL (Shs) |
|------|------------------------------|-------------------------------|------------------------------|--------------|
| 1970 | 638,288.50 | 2,468,024.85 | 504,549.60 | 3,610,862.95 |
| 1971 | 820,676.45 | 861,058.05 | 364,229.35 | 2,045,963.85 |
| 1972 | 905,107.25 | 910,257.80 | 188,413.00 | 2,003,778.05 |
| 1973 | 778,848.25 | 850,889.30 | 219,099.00 | 1,848,836.55 |
| 1974 | 727,467.10 | 687,854.00 | 82,665.00 | 1,497,986.10 |
| 1975 | 715,805.50 | 1,359,092.00 | 41,600.00 | 2,116,497.50 |
| 1976 | 648,723.00 | 937,557.50 | 113,939.00 | 1,700,219.50 |
| 1977 | 508,261.50 | - | 90,429.00 | 598,690.50 |
| 1978 | 236,276.50 | 470,744.00 | - | 707,020.50 |
| 1979 | 31,830.00 | 17,740.00 | 12,100.00 | 61,670.00 |

Source: Game Department, 1970 – 1979

With regard to legal trade in wild flora, political instability and economic mismanagement during the 1970s caused revenue earned from the export of forest products to drop. The military junta's decision to expel Asians meant that the sawmills they operated were abandoned. This resulted in a decline in the felling of logs and lower sawn timber production. Attempts by the Forest Department and indigenous Ugandans to take over the abandoned sawmills and increase production were futile due to lack of experience in sawmill operation and maintenance (Forest Department, 1974).

3.3.2 Illegal Wildlife Trade in the 1970s

Generally, the 1970s in Uganda were characterised by political decadence, the breakdown in constitutional rule, law and order, the degeneration of public institutions, and the mismanagement of the economy. The illegal and indiscriminate exploitation of natural resources, particularly wild animals, was therefore rampant during this turbulent period. Even with the scanty documentation available, an examination of poaching trends during this period provides some insight into the character and scale of illegal wildlife trade.

Despite the series of decrees and statutory instruments enacted during the 1970s, annual reports of the Game Department (GD) during the early and mid-1970s suggested a growth in the incidence and sophistication of poaching, especially of elephants. Poaching gangs armed with weapons ranging from spears to automatic rifles in West Nile, Acholi, Teso, Karamoja, Tooro and Bunyoro were regularly encountered by game guards. Poachers equipped with wire snares and traps were also prevalent. In West Nile and Acholi, poachers operated in large gangs numbering 50 to 200 people; some acting as sentinels to warn their associates of approaching game guards (Game Department, 1972).

By 1973, elephant poaching had become "a problem to contend with" especially since, having run out of ammunitions, poachers resorted to chemical poisoning to kill elephants (Game Department, 1973). The Anti-Poaching Team was largely ineffectual in stemming the escalation in poaching during this period, partly because game guards were an integral component of the poaching and illegal wildlife trade network. Although not directly mentioned, GD annual reports do allude to the fact that poaching was, to a large extent, state-sponsored.

"In the course of anti-poaching efforts, it became self evident that some of the field staff were either colluding with or conniving at poachers" (Game Department, 1973)."

"The Game Department is neither responsible for controlling the customs posts at the borders nor is it responsible for the supply of firearms and ammunition. In view of these legal limitations, the Department found itself incapable of effectively controlling the poaching problem" (Game Department, 1973)."

Allegations of state-sponsored poaching are corroborated by the fact that, in spite of the common recognition that poaching and illegal wildlife trade were on the increase during the 1970s, the number of poachers arrested, prosecuted and convicted by Government generally declined during that period (**Table 6**). Within an environment of unconstitutional rule, lawlessness and overt corruption that characterised this period, the Government could not be trusted to regulate itself.

Table 6: Poachers Arrested, Prosecuted and Convicted in the 1970s

| Year | Poachers Arrested | Poachers Prosecuted and/or Convicted |
|------|-------------------|--------------------------------------|
| 1970 | - | - |
| 1971 | 439 | 350 |
| 1972 | 357 | 273 |
| 1973 | 311 | 250 |
| 1974 | 382 | 149 |
| 1975 | 220 | 93 |
| 1976 | 209 | 105 |
| 1977 | 47 | 25 |
| 1978 | 79 | 20 |
| 1979 | 21 | 2 |

Source: Game Department, 1970 – 1979

By 1975, poaching had reached disastrous levels. It was evident that it had become an immensely profitable business, which involved “well organised, highly sophisticated rackets involving agents” who paid a pittance to individuals in local communities that did the killing in exchange for ivory and other trophies that could be exported (Game Department, 1974). In recognition of this level of sophistication, the military junta promulgated a Decree in September 1975, banning elephant hunting and ivory trade, and passed the drastic *Decree Nos. 13 and 14*. However, with the exception of a short lull in elephant poaching that allowed their migration back into Uganda from neighbouring countries, these measures were marginally successful in stemming the poaching tide.

Additionally, the consequences of the elephant study initiated by the UNP Board of Trustees in 1973 were devastating. Word went round in local communities that the government had decided that elephants were too many and that their population needed to be reduced. This triggered greater poaching of elephants in local communities and may have also motivated the state-sponsored poaching that occurred during the 1970s. On one occasion in 1976, after bilateral talks in Mweya Safari Lodge, Presidents Idi Amin of Uganda and Muammar Gaddafi of Libya were observed hunting elephants in Queen Elizabeth National Park (QENP), in spite of the government ban on elephant hunting that had been introduced the previous year (Professor Edroma, personal communication).

During the process to overthrow Idi Amin’s regime in 1978 and 1979, poaching took on a new dimension. Poaching in West Nile, Kibale Forest, East Teso, Pian Upe, Sebei and Karamoja was rampant and took place, particularly in Karamoja, with the apparent collaboration of the Police who often destroyed evidence and did not prosecute suspects (Game Department, 1978). Additionally, the indiscriminate and sadistic killing of wild animals by the defeated and retreating armed forces of Idi Amin was widespread. By 1979, the national elephant population of 30,000 in the 1960s had dwindled to an estimated 6,000 and the black and white rhino was virtually extinct.

Also, encroachment into forest reserves by cultivators and livestock grazers continued to be a major problem in the 1970s. Unlicensed pitsawing in forest reserves and public land was also rampant during the 1970s. This was particularly so in the natural forests of Ankole, Bunyoro, Masaka, East Buganda, Kigezi and West Mengo (Forest Department, 1974). Therefore, although there was a decline in government revenue from forest produce after the expulsion of Asians, the demand for timber within and outside Uganda remained. With the Forest Department poorly facilitated to carry out field inspections, a considerable amount of illegal pitsawing and trade of forest products took place on the black market,

which explains the decline in government revenue (David Hafashimana⁴, personal communication). Illegal pitsawing and trade was, to a large extent, state-inspired by some military officers who were direct beneficiaries. This illegal trade within Uganda and with neighbouring countries flourished until the mid 1980s.

3.4 Wildlife Trade Practices and Laws in the 1980s

The overthrow of Idi Amin's regime in 1979 brought renewed hope of a return to law and order, constitutional rule and prudent economic management in Uganda. But the political instability and insecurity that ensued exacerbated institutional decay, which impeded the conservation and restoration of effective management practices of renewable natural resources. For example, data collection and reporting on legal and illegal wildlife trade deteriorated during the 1980s.

The coming into power of the National Resistance Movement (NRM) in 1986 brought about greater security and political stability, which resulted in the renewal and restructuring of institutions responsible for the management of wildlife. However, it would take at least a decade for the wildlife sector to begin to recover from the destruction of the 1970s and 1980s.

3.4.1 Legal Wildlife Trade in the 1980s

As a result of the ban on hunting in 1979, limited legal wildlife trade occurred during the 1980s. For example, according to available GD annual reports, no ivory, game meat and trophies were available for sale in 1980 and 1981. Later in 1984, *Statutory Instrument No. 42*, the Game (Preservation and Control) Prohibition Order, was promulgated to reinforce the hunting ban of 1979, whose five-year term had expired. The purpose of this Instrument was to allow wildlife populations to grow to levels prior to the indiscriminate slaughter of the 1970s.

Therefore, legal wildlife trade during the 1980s was restricted to the export or re-export of live animals and plants (**Table 7**), which meant that it ceased to be the major revenue earner it was in the 1970s. For example, total revenue earned by the government from the sale of licences, permits and live animals amounted to 5,010 shillings in 1980 and 67,810 shillings in 1981, compared to 794,526 shillings a decade earlier (Game Department, 1981).

⁴ Nature Conservation Officer and Desk Officer – Biosafety and CITES at the Forest Department, Ministry of Water, Lands & Environment.

Table 7: Live Animal and Plant Exports or Re-Exports from Uganda

| Year | Species | Quantity | Destination |
|------|---------------------|----------|-------------|
| 1981 | Orchids | 50 | USA |
| 1982 | De Brazza's Monkey | 10 | UK |
| 1983 | Grey Parrot | 1 | UK |
| 1984 | Grey Parrot | 2 | UK |
| 1985 | De Brazza's Monkey | 2 | Japan |
| | Colobus Monkey | 4 | Japan |
| | Unidentified Parrot | 1 | Rwanda |
| | Grey Parrot | 1 | Italy |
| | Grey Parrot | 1 | USA |
| 1986 | Chinese Leopard Cat | 4 | USA |
| | De Brazza's Monkey | 10 | UK |
| | Grey Parrot | 1 | Denmark |
| 1987 | Shoebill | 2 | Belgium |
| | Shoebill | 1 | Netherlands |
| | Grey Parrot | 3 | USA |
| | Saddle-billed Stork | 3 | Netherlands |
| | Marabou Stork | 18 | Netherlands |
| | Hadada | 18 | Netherlands |
| 1989 | Grey Parrot | 2 | Italy |
| | | 3 | UK |

Source: MUIENR, 1995 and European Commission, 1989

3.4.2 Illegal Wildlife Trade in the 1980s

The restrictions on legal wildlife trade did not halt illegal wildlife trade in the 1980s. For example, a record of 44 automatic rifles and 383 rounds of ammunition were seized from poachers in 1980 (Game Department, 1980). Twenty-two arrests and 12 convictions of poachers were recorded in the same year. However, although poaching declined overall countrywide in 1981, it deteriorated significantly in Teso and Karamoja as a result of the insecurity caused by cattle raids. The use of firearms for poaching declined, but poaching with traditional weapons continued unabated. Seizures from poachers in 1981 included 26 firearms, 21 elephant tusks, 23 pangas, 200 spears, and 961 snares (Game Department, 1981). Sixty-four arrests, 34 prosecutions and 27 convictions were recorded in the same year.

By 1983, the elephant population thought to number 6,000 in 1979 had fallen to an estimated 2,000. Also, statistics available on the population trends of selected mammals since independence (**Table 9**) reveal large declines in the populations of some species between 1982 and 1998. However, since the scope and nature of illegal wildlife trade between 1982 and 1994 was hardly documented, it is, by and large, reasonable to assume that the majority of declines in the populations of various species occurred during the periods of greatest instability and lawlessness in the early and mid-1980s.

3.5 Wildlife Trade Practices and Laws in the 1990s

The political stability and security ushered in by the NRM brought greater law and order, constitutional rule and improved economic management during the 1990s. Wildlife management continued to be largely the responsibility of the Game Department (GD), Uganda National Parks (UNP) and the Forest Department (FD). Additional institutions were created, such as the Uganda National Council for Science and Technology (UNCST) in 1991 and the National Environment Management Authority (NEMA) in 1995, to complement the functions of the GD, UNP and FD.

Uganda also became a party to the Convention on International Trade in Endangered Species (CITES) in 1991, and the Convention on Biological Diversity (CBD) in 1993. This meant that wildlife trade in Uganda now had to conform to international standards. Uganda also embarked on a process to control access to biological and genetic resources, which resulted in a ban on the export of wild plants and animals except in specific circumstances.

Additionally, along with the Constitution of the Republic of Uganda of 1995, a number of laws were passed and policies and master plans developed that concerned wildlife trade in Uganda. These included:

- ❑ The Environment Management Policy for Uganda – 1994
- ❑ The National Environment Statute – 1995
- ❑ The Wildlife Policy – 1995, 1999 (draft)
- ❑ The Wildlife Statute – 1996
- ❑ The Local Government Act – 1997
- ❑ The Land Act – 1998
- ❑ The Ratification of Treaties Act, No. 5 – 1998
- ❑ The Forest Nature Conservation Master Plan – 1999

The Wildlife Statute of 1996 repealed the National Parks Act of 1952 and the Game (Preservation and Control) Act of 1959. However, the schedules listed under the Game (Preservation and Control) Act were maintained. The Wildlife Statute also amended the Fish and Crocodile Act of 1951 by removing any reference to the crocodile.

In accordance with an agreement that had been effected in 1976 but which had not been implemented, UNP took over management of the GD from July 1995 to August 1996. This led to the formation of the Uganda Wildlife Authority (UWA). Unfortunately, consultations and the relationship between UNP and the GD immediately prior to and during this merger were extremely tense and characterised by intrigue (Professor Edroma, personal communication). UNP, being in the stronger financial and influential position at the time of the merger, made sure that the interests of its staff took precedence over those of the GD. Retention of UNP staff during the merger was favoured and several GD staff were retrenched. This created tension in the relationship between the two organisations and later impinged on the functioning of UWA; a situation that, to some extent, still prevails and ultimately influences wildlife management and conservation in Uganda.

3.5.1 Legal Wildlife Trade in the 1990s

Trade in wild animals and plants in Uganda during the 1990s was minimal and, therefore, did not account for a significant share of annual government revenue. For example, there exists no record of wild animals exported in 1990, although 568 live orchids were exported in the same year (MUIENR, 1995). A review of Ugandan wildlife exports to Europe in the early 1990s reveals the export of one live grey parrot to the Federal Republic of Germany (European Commission, 1991). Also, re-export and export of CITES-listed plant species *Cycas revoluta* (Cycadaceae) and *Encephalartos* spp, respectively, occurred between 1995 and 1999 (David Hafashimana, personal communication).

Although it is evident through the few CITES Export Permits that have been applied for and issued that some export and re-export of CITES-listed species and their derivatives occurred during the 1990s, complete details of these transactions are deliberately or inadvertently scarce. One individual, who was initially the Chief Game Warden, then the Commissioner for Wildlife and later a Deputy Director at the Uganda Wildlife Authority – assumed the responsibilities of a Management and Scientific Authority between CITES ratification in 1991 and the Ministerial appointment of a Management Authority in 1999. This situation was devoid of accountability, especially since there was poor record keeping during this period. This, ultimately, negatively impacted CITES implementation in Uganda, as is evidenced by the lack of CITES Annual Reports since 1996 and the current poor level of coordination between CITES stakeholder organisations.

In 1999, at the insistence of the Second Deputy Prime Minister/Minister of Tourism, Trade and Industry, Uganda American Pet Exchange Limited was granted a permit by the Uganda Wildlife Authority (UWA) to collect, breed and export large numbers of various wildlife species, including some listed in the CITES Appendices. This permit was granted in spite of the fact that the Uganda Wildlife Authority (UWA) has yet to pass final guidelines for wildlife use rights. Additionally, the basis by which the permitted quotas and tariffs for each species were assigned is not entirely clear, especially since wildlife populations and the market value for the various species are unknown. The Uganda Wildlife Society (UWS) is currently investigating the conditions and legality under which this permit was issued.

3.5.2 Illegal Wildlife Trade in the 1990s

Illegal wildlife trade continued during the 1990s, but on a more limited scale due to the renewal and restructuring of law enforcement and wildlife management institutions. Insecurity along Uganda's northern and western borders has exacerbated poaching and illegal wildlife trade. Reports from the print and electronic media and other sources indicated that illegal wildlife trade occurs, especially in the form of smuggled wildlife specimens and products from the Democratic Republic of Congo (DRC). For example, the print media continues to report ivory and chimpanzee imports into Uganda, and their subsequent re-export out of the country. Several individuals have been arrested for being in illegal possession of wildlife specimens and products in the 1990s (**Table 8**). Many of these arrests were for possession or attempts to export species listed under CITES. A number of cases involved individuals attempting to import and re-export CITES-listed species from the DRC.

Also, poaching for subsistence and commercial purposes prevails, particularly in the River Kafu Basin, Luwero, Kiboga, and Lake Mburo ecosystem. Trade in game meat in Kampala is rampant and the clandestine sale of skins of CITES-listed species such as the cheetah, leopard, Colobus monkey and crocodile occurs in markets such as Shauri Yako and Nakawa (Karugaba, 1997).

Table 8: Some Individuals Arrested, Prosecuted, or Convicted for Illegal Possession or Attempting to Export or Re-export Wildlife Specimens and Products in the 1990s

| Year | Suspect/Convict | Offence | Relevant Law |
|------|------------------------------|--|---|
| 1994 | Grace Mbaziira | Unlawful possession of 27 crocodile skins | Section 228 of the Fish and Crocodile Act |
| 1994 | Babie Fatuma | Unlawful possession of one cheetah skin while trying to sell it to officials of the German Embassy | Sections 14 and 90 of the Game Act |
| 1995 | John Kenyi | Unlawful possession of three leopard skins | Sections 14 and 90 of the Game Act |
| 1995 | 9 Chinese nationals | Attempting to illegally export 100 kgs of curved ivory, live specimens and game trophies | - |
| 1995 | Ahmad Yusuf | Illegal possession of 11 grey parrots on a truck from DRC to Kenya | - |
| 1995 | Charles Kasamba | Unlawful possession of raw and curved ivory | Section 22(1) of the Game Act |
| 1995 | Ahmed Alimadi (Sudanese) | Unlawful possession of 76 hippo teeth and warthog teeth | Section 25 of the Game Act |
| 1996 | Charles Ekidetti | Unlawful sale of Colobus Monkey skin at Shauri Yako Market | Section 10(1) of the Game Act |
| 1996 | Shadir Kapacee and Kyambadde | Unlawful possession of 8 grey parrots | Section 25 of the Game Act |
| 1996 | Hussein Zakia | Unlawful possession of 8 ostriches, 2 grey parrots, and 2 helmeted guinea fowls | Section 25 of the Game Act |
| 1996 | Mohammed Tagayala | Unlawful possession of 1 crocodile skin at Nakawa Market | Section 76(b) of the Wildlife Statute |
| 1997 | Valley Kyaligonza | Unlawful possession/transporting of 1 chimpanzee to U.S. Marines | - |
| 1997 | Mohammed Kanute (Gambian) | Unlawful possession of 6 crocodile skins, 1 leopard skin and 7 ivory pieces | Sections 31 and 75(a) of the Wildlife Statute |
| 1997 | Haji Abubaker Yahaya | Unlawful possession of curved and raw ivory | Sections 31 and 75(a) of the Wildlife Statute |
| 1998 | Elias Edera | Unlawful possession of ivory | Sections 31 and 75(a) of the Wildlife Statute |
| 2000 | Benjamin Di'Souza | Unlawful possession of ivory and hippo teeth from Goma, DRC to Portugal | Sections 31 and 75(a) of the Wildlife Statute |

Source: UWA and New Vision, May 24, 2000

SECTION FOUR

A Review of Major Wildlife Conventions

4.1 Convention for the Preservation of Wild Animals, Birds and Fish in Africa (1900 Convention)

The 1900 Convention, the first international agreement to address African wildlife conservation, was signed in London on 19th May 1900. European countries colonising much of Africa at the time, including France, Germany, Great Britain, Italy, Portugal and Spain, signed it with the objective of preventing the uncontrolled massacre and ensuring the conservation of Africa's diverse wild animal species. The primary aim of the Convention was to preserve a good supply of wild animals for European trophy hunters, ivory traders and skin dealers.

The Convention prohibited: the killing of animals considered useful and endangered; the killing of non-adults and females in the company of their young of animals such as elephants, rhinos, hippos, antelopes, etc.; and the use of explosives for fishing (Lyster, 1985). The Convention was the first treaty to encourage the establishment of nature reserves, but also called for reductions in the populations of reptiles such as the crocodile and python, and predators such as the lion, leopard and spotted hyaena.

4.2 Convention Relative to the Preservation of Fauna and Flora in their Natural State (London Convention)

The London Convention of 1933 superseded the 1900 Convention and, like its predecessor, was signed by European countries colonising Africa at the time. Its primary objective was to preserve animal species considered economically viable and popular with European trophy hunters. The main emphasis of the Convention was the creation of national parks and strict nature reserves (Lyster, 1985). It also prohibited the hunting, killing and capture of fauna and the collection or destruction of flora in protected areas, and required Parties to establish buffer zones around protected areas. The Convention also required a special licence to be obtained before species listed for protection in the Convention could be hunted, killed or captured. It further regulated international trade in the parts and products of listed species, and banned the use of poison, nets and dazzling lights to hunt, kill or capture animals (Lyster, 1985). The provisions of this Convention were reflected in Uganda's Protectorate-era wildlife legislation, which established national parks and game reserves.

4.3 African Convention on the Conservation of Nature and Natural Resources (African Convention)

The African Convention was signed in 1968 by newly independent African countries, which sought a wider encompassing treaty that would conserve wildlife and other natural resources such as water and soil. It also emphasised the need for protected areas, special conservation measures for species listed under the Convention, and required conservation education, research and the need to integrate conservation into development plans (Lyster, 1985).

Unfortunately, the Convention did not establish a permanent Secretariat to oversee its implementation, and as a result, several Parties have not implemented its provisions.

4.4 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

The 1960 Seventh IUCN General Assembly was the first international forum to discuss the uncontrolled exploitation of and international trade in wildlife. The Assembly recommended that governments restrict importation of animals in accordance with the export regulations of the country of origin (Wijnstekers, 2000). This was difficult to implement, as there was no framework enabling importing countries to be aware of such export regulations.

In 1963, the IUCN General Assembly, passed a resolution calling for "an international convention on regulation of export, transit and import of rare or threatened wildlife species or their skins and

trophies". A draft convention was presented in 1964 and at the 1969 IUCN General Assembly a list of species to be controlled was presented (Wijnstekers, 2000). A second draft convention was circulated in 1971.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was eventually signed in March 1973 and entered into force after the tenth ratification on 1 July 1975. The basic principles of CITES against which trade is regulated are contained in the three Appendices to the Convention, and are as follows:

- ❖ **Appendix I** shall include all species threatened with extinction, which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation, in order not to endanger further their survival, and must only be authorised in exceptional circumstances.
- ❖ **Appendix II** shall include:
 - a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilisation incompatible with their survival; and
 - b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.
- ❖ **Appendix III** shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.

Parties to the Convention are not allowed to trade in species or their derivatives included in Appendices I, II and III, except in accordance with the provisions of the Convention.

The primary intention of CITES was to set up a system through which the trade controls in importing countries could be matched with those in the exporting countries. It was created as a result of widespread concern expressed by wildlife conservationists about the rapidly increasing demand for wildlife in the developed world, which was causing severe over-exploitation of some species mainly in the developing countries that would lead to their extinction (Huxley, undated).

After about twenty-five years of existence, the Convention text has undergone various discussions and questions have been raised as to whether CITES has accomplished the goal it was set to achieve. The successes or failures of CITES are derived from several factors, some of which include:

- a) the contents of the Convention text,
- b) the capacity of institutions responsible for implementation of CITES,
- c) the existence or absence of national legislation to implement the Convention, and
- d) external factors other than international trade that contribute to illegal trade.

The Convention urges parties to adopt stricter domestic measures regarding the conditions for restricting or prohibiting trade of species listed in the three appendices, as well as species not listed in Appendices II and III – *Article XIV (1)*. Therefore, the burden shifts to Parties to the Convention to adopt such measures, which will ensure the enforcement of the Convention.

4.4.1 Accomplishments of CITES

CITES is one of the wildlife conventions which has to a great extent contributed to setting up a global system for controlling wildlife trade. It has created awareness in conservation and trade in wildlife and wildlife products which is reflected by the interception of wildlife products that are illegally traded.

The success of CITES against the earlier conventions on wildlife is attributed to the existence of a Secretariat and the existence of Management and Scientific Authorities in the countries party to the Convention. Furthermore, the requirement of Parties to produce annual and biennial reports, in addition to the Conferences of Parties, has established an accounting system where the effectiveness of the

provisions of the Convention are considered and the activities of the Parties monitored. Therefore, through the establishment of a regulatory framework governing international trade in endangered species, the Convention has to some extent placed restrictions and contributed to the control of trade in endangered species.

The biennial Conference of Parties (COP) provides a forum for Parties to discuss proposed amendments to the appendices and resolutions to improve the implementation of CITES. At the COP, Parties are bound by decisions of the majority vote on whether to allow or reject proposals for trade in Appendix I species. For example, at both CITES COP 8 and 9 in 1992 and 1994, respectively, South Africa submitted unsuccessful proposals to downlist its elephant population in order to allow for trade in ivory and hides. At CITES COP 10 in 1997, Botswana, Zimbabwe and Namibia successfully requested that their large elephant populations be downlisted to Appendix II to allow one-off auctions of existing ivory stockpiles in each country.

While CITES on one hand is considered restrictive, it allows, on the other hand, for commercial trade of Appendix I species through a quota system, which provides an incentive for parties to improve their wildlife management systems and reduce on their otherwise large populations of particular species and wildlife products. Additionally, the listing of species in the appendices of CITES may have a positive effect in that, entrepreneurial and law-abiding citizens may choose to embark on captive breeding or artificial propagation projects to meet demand, which is acceptable under the provisions of the Convention.

The level of success in the implementation and enforcement of CITES varies among the different Parties to the Convention. While some Parties have efficient CITES implementation and enforcement systems, others do not even have domestic legislation to implement the Convention.

4.4.2 Failures and Obstacles in CITES Implementation

The effective implementation of legislation is dependent on the capability of the institutions established to execute their designated roles. Therefore, CITES would work best in those countries with strong wildlife agencies and efficient administrative systems. No amount of controls at the international level can rectify the conservation deficiencies arising from State agencies that are weak in law enforcement and administration (Martin, undated).

The major purpose of CITES was to control international trade, which was thought to be the cause of extinction and great loss in numbers of wild plants and animals. While this is true to some extent, CITES ignored the external factors that have contributed to the low populations of wildlife. The Convention, for example, makes no requirement for countries to address internal problems such as habitat loss, which may often be a greater threat to a species than international trade.

It has also been argued that, the focus of CITES on the global level is failing. This is because if a species is considered endangered on a global level, then regardless of its status in an individual country, trade may be banned. Therefore, a nation can be said to have lost its sovereignty over its natural resources on becoming a party to the Convention. For example, some elephant range states have large and increasing populations of elephants, which are likely to exceed the carrying capacity if the ban on ivory is maintained indefinitely. CITES has, therefore, effectively transformed the wealth of natural resources in individual countries into global commons or a "common heritage of mankind" (Huxley, undated).

It can be further argued that the application of the Convention is misdirected because, instead of using the trade control mechanisms to encourage sustainable use of wildlife, it restricts such use. Therefore, CITES has failed to create mechanisms to encourage sustainable and legal wildlife trade where it can be shown to be beneficial. As a result, CITES penalises range States that have good management systems while benefiting those with poor systems through the restriction of such trade.

Furthermore, the listing of species in the separate appendices, while desirable, may prove counter-productive. It is well known that trade restrictions and bans tend merely to inflate prices, thus making the trade more valuable, profitable and worth the risk. The listing may increase demand because it would represent an advertisement for a rarity. Therefore, the listing of species can be considered a double-edged sword, because while it is considered to be 'protective', it can trigger off poaching and illegal trade.

The establishment of Scientific and Management Authorities by parties is a requirement under the Convention⁵. While such institutions exist in party states, a number of developing countries experience problems with staffing, training and lack of adequate expertise and logistics. With the exception of a handful of individuals, who are conversant with the requirements of the Convention, regulation of trade in CITES-listed species is a relatively new issue to wildlife institutions in Uganda.

The scanty database on Uganda's wildlife resources is another setback. For example, obtaining the necessary scientific information that will justify the granting or rejection of a permit application may be, in several instances, impossible to obtain. Information on populations of both flora and fauna may be outdated, non-existent or mere estimates – the quality of which is debatable. Reliance on such information may have negative results on the population of particular species. In the absence of reliable information on the status and population of both plant and animal species, the regulatory role of the institutions will be questionable.

External factors also influence the legal framework for CITES implementation. For example, political instability or civil strife in some areas of a country will contribute to lawlessness. In situations of such instability, firearms are easily accessible and used to indiscriminately kill animals for food and for commercial purposes. Furthermore, institutions such as UWA which are responsible for the enforcement of CITES are unable to access these areas because of the insecurity. The insecurity further provides persons engaged in illegal trade the opportunity to ferry endangered species and wildlife products across borders undetected. For example, a lot of illegal wildlife trade is carried out along Uganda's border with the DRC, which is reflected in the origin of the numerous chimpanzees confiscated in Uganda and sent to UWEC or the primate sanctuary on Ngamba Island (**Table 9**).

Table 9: List of Chimpanzees at Ngamba Island

| NAME OF CHIMPANZEE | ORIGIN | PLACE OF CONFISCATION | ARRIVAL AT UWEC | DETAILS |
|--------------------|-------------------------------|---------------------------------|-----------------|---|
| 1. Megan | Rwanda | Entebbe Airport | Dec. 1988 | This is one of the three chimps illegally taken from UWEC in 1990 to Moscow. This chimp was re-confiscated and returned to UWEC in 1991. |
| 2. Masiko | Zaire | Entebbe Airport | Dec. 1988 | Details same as in 1 above. |
| 3. Sunday | Zaire | Entebbe Airport | June 1989 | Details same as in 1 above. |
| 4. Kidodgo | Zaire | - | Dec. 1988 | - |
| 5. Robbie | Zaire | Kyambura Village | August 1991 | - |
| 6. Peace | Kibale Forest, Uganda | Colline Hotel, Mukono | 1991 | Hotel was found in illegal possession of this animal. |
| 7. Sophie | Zaire | Malaba border post | March 1993 | Before confiscation, this chimp was destined for Dubai where she was going to be a house pet. The holder had false papers for the animal. |
| 8. Nagoti | - | Kampala | July 1992 | - |
| 9. Katie | Zaire | Entebbe Airport | Dec. 1990 | - |
| 10. Eddy | Kibale Forest, Uganda | Akefs Egyptian circus, Kampala. | Dec. 1993 | - |
| 11. Connie | Uganda | Army road block near Mbarara | July 1992 | - |
| 12. Tumbo | Kibale/ Itwara Forest, Uganda | Entebbe Airport | Dec. 19990 | - |

⁵ Article IX, Convention on International Trade in Endangered Species of Wild Flora and Fauna, 1973

| | | | | |
|-------------|-------------------------------|--|--------------|---|
| 13. Bahati | Uganda | Kibale area, Uganda | April 1994 | - |
| 14. Natasha | Kibale/ Itwara Forest, Uganda | Arua, Uganda | March 1994 | - |
| 15. Becky | Uganda | Kampala | January 1994 | Chimp was found abandoned in a garden. |
| 16. Sally | Kibale/ Itwara Forest, Uganda | Kampala | January 1994 | - |
| 17. Mika | Uganda | Akefs Circus, Kampala | Dec. 1993 | - |
| 18. Cindy | Budongo Forest, Uganda | Masindi, Uganda | 1994 | - |
| 19. Ikuru | Congo | Arua, Uganda | May 1999 | This chimp was brought into Uganda by a Ugandan soldier who rescued it from its dead mother who had been accidentally killed in Congo. |
| 20. Adiru | Congo (DRC) | Arua, Uganda | June 1999 | This chimp was confiscated from animal dealers from Congo who were trying to sell her in Uganda. |
| 21. Nkumwa | Uganda | A cook at the US Marine house, Kampala | June 1999 | - |
| 22. Mawa | Congo (DRC) | Arua, Uganda | June 1999 | Chimp was used as a pet by a Congolese family before it was confiscated. |
| 23. Kalema | Congo (DRC) | Kampala | Oct. 1999 | Chimp was confiscated from an army official who had got it from army officers in Arua who were mistreating it. |
| 24. Ajore | Congo (DRC) | Arua, Uganda | Sept. 1999 | An attempt to smuggle this chimp out of Uganda as a human infant on the back of a woman was foiled by the Customs officials who confiscated it. |
| 25. Baluku | Congo (DRC) | Mpondwe Customs point, Uganda | Oct. 1999 | - |
| 26. Asega | Congo (DRC) | Arua, Uganda | Dec. 1999 | Chimp was confiscated by the police from a Sudanese man. |

Source: Uganda Wildlife Education Centre List of Acquisitions for 1998,1999, and 2000

SECTION FIVE

A Review of Ugandan Statutory Laws, Policies and Regulations Since CITES Ratification

There are several laws that address the conservation and management of wildlife resources in Uganda. After independence, a number of laws were adopted from the protectorate administration that protected specific natural resource sectors. For example, the Fish and Crocodiles Act specifically catered for the two categories of fauna, the Plant Protection Act addressed the protection of agricultural plants from pests, and the Game (Preservation and Control) Act catered for vertebrate or invertebrate animals. These sectoral laws created jurisdictional overlaps and conflicts, and ignored the indivisibility and inter-relationships within the ecosystem.

For example, UNP and the GD were separate entities catering for animals in designated areas. While many game reserves and controlled hunting areas formed buffer zones around national parks, the staff members of either institution were not allowed to operate in the others' territory. The irony of it all was that the animals both institutions were protecting did not recognise such barriers, especially since protected area boundaries were not visibly defined with fencing. While the animals continued to roam oblivious to boundaries, game and park rangers on patrol often clashed and branded each other poachers if found in the other's territory.

The wildlife legislation during the colonial period was enacted to protect and preserve wildlife and to regulate its utilisation. Specific areas were designated national parks, game reserves, controlled hunting areas and sanctuaries to primarily serve the protectorate administration's revenue interests resulting from consumptive and non-consumptive utilisation of wildlife. Access to these protected areas varied from total restriction to limited access on the basis of licences.

The legislation adopted an approach in which the State exclusively managed wildlife resources in protected areas. Protected areas created conflicting interests between the State and local communities, which led to an increase in poaching and wanton killing of wild animals. For example, pastoralists perceived the creation of Lake Mburo National Park as a means of preventing them access to the permanent water source and grazing land in the Park during the dry season. Law enforcement officers in the Park would often require extra manpower to keep out the pastoralists.

The lack of perceptible benefits from the conservation of wildlife through the protected areas system led local communities adjacent to protected areas to develop negative attitudes towards these areas. Huxley (1961), in an effort to put across the views of Africans on national parks states that:

"Some of them regarded national parks and controlled shooting areas as relics of white 'colonialism' or merely places for white men to indulge in their peculiar habit of enjoying the sight or pursuit of wild animals."

With such perceptions in local communities, policy makers during the late 1980s and 1990s sought ways of sharing and demonstrating the benefits of wildlife protected areas. Recent wildlife legislation and policies provide for the involvement of local communities in the management of wildlife resources and the sharing of the benefits derived from wildlife in their communities. For example, local communities are granted access to protected areas to sustainably harvest products of traditional and consumptive value, such as medicinal plants, bamboo and honey.

The inclusion of district authorities, local community groups, non-governmental organisations (NGOs) and the private sector in the management of wildlife is a new approach aimed at promoting the conservation and sustainable utilisation of wildlife. Ugandan wildlife policy and legislation is gradually creating new opportunities for articulating new wildlife management principles and incorporating international legal commitments. The following chronological analysis of Uganda's wildlife policy and legislation since CITES ratification confirms this trend.

5.1 The Plant Protection Act, Cap. 244 of 1937

This Act provides for the protection of agricultural plants from the introduction and spread of destructive diseases, but does not provide for the protection of wild plant species and the regulation of trade. It is the guiding legislation for the Phytosanitary and Quarantine Inspection Service (PQIS), whose primary function is to safeguard Uganda's agriculture against diseases and pests through the inspection of any plant materials at designated entry and exit points.

Although this Act could be contributing to the control of diseases and pests that could infect wild plants that are the source of food for wild animals and traditional medicine for indigenous communities, it is of marginal importance to the implementation of CITES in Uganda. In order to legislatively endorse the current CITES responsibilities being undertaken by PQIS, this Act requires an amendment to include protection of endangered wild plant species against trade that is detrimental to their survival.

5.2 The Animal Prevention of Cruelty Act, Cap. 220

This Act addresses the prevention of cruelty to animals. It empowers the Minister to appoint an authorised officer to carry out the provisions of the Act⁶. Whereas this law provides for the protection of animals against cruelty, it does not have mechanisms in place to ensure compliance. Although the Minister is obliged to appoint an officer to execute the Act, domestic and wild animals continue to be treated with cruelty during transportation. The matter is worse in cases of illegal trade where wild animals are smuggled across borders in disguised packaging, which often leads to suffocation and death. However, though the Act is not specific on wild animals, it does incorporate some of the provisions of CITES, particularly in respect to the safe transportation of animals during export, import and re-export⁷.

5.3 The Forests Act, Cap. 246 of 1947

The Forests Act provides for the management and protection of forests. It, for instance, authorises local authorities to maintain and control the local forest reserves⁸ and strictly prohibits⁹ the settlement and use of forestland. The extraction of forest products is regulated by the Act through licences¹⁰. But this Act, which has been on the statute books for almost 53 years, is outdated and does not cater for the developing trends in the protection and sustainable use of natural resources. It emphasises the commercial value obtained from forests without considering the conservation and control of trade in endangered species in the forest reserves. Furthermore, the Act does not make provision for the management of forests on private land.

Although the Act does not cater for the implementation of CITES, administrative measures were taken after CITES ratification, designating the Commissioner for Forestry as the CITES Scientific Authority for plants. There is need, therefore, to amend the Act to reflect this role.

In an attempt to make changes in forest use and management, a Forest Policy was prepared in 1988. It emphasised the need to safeguard enough forestland so as to ensure that the soils are protected and plants and animals, including endangered ones, are conserved in natural ecosystems. The Policy also emphasised the importance of forests in environment protection, but contained limited guidance on the management of forests outside gazetted reserves, and was similarly silent on the roles of the government, the private sector and rural communities. Besides that, it did not provide for linkages with other sectors.

5.4 The Fish and Crocodiles Act, Cap. 228 of 1951 (as amended)

This Act regulated fishing, conservation of fish, the catching of crocodiles and the sale and movement of their skins through issue of licences. It was amended by *Section 94(3)* of the Wildlife Statute

⁶ Section 14, Animal Prevention of Cruelty Act, Cap. 220.

⁷ The Management Authority is required, prior to granting an export, import or re-export permit, to ensure that "any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment."

⁸ Section 5, Forests Act, Cap. 246

⁹ Ibid. Section 14.

¹⁰ Ibid. Section 12.

by deleting from all its provisions any reference to crocodiles. The management of crocodiles was thus brought under the Wildlife Statute.

The Act provides for the protection of fish by regulating the size of nets, prohibited fishing methods, and makes provisions for conservation through the prohibition of fishing immature fish, declaring closed seasons and regulating vessels of non-citizens from fishing in Uganda without a valid licence. The Act also attempts to conserve fish by prohibiting the introduction of some species of fish or eggs that were not indigenous to Uganda, or the transfer of fish or fish eggs from one water body to another without the consent of the Chief Game Warden. It does not make express provisions for regulating international trade in fish species and should, therefore, be amended to match the present day conservation and management trends in fisheries resources.

The Draft Fisheries Policy of May 2000 attempts to address the inadequacies of the Fish Act. The Draft Policy provides for, among others, the protection of the fish habitat, the restoration and conservation of rare fish species, the control of over fishing and the promotion of community participation in fisheries management. The Policy also, expressly makes reference to CITES as an essential tool for conservation and trade in the fisheries sector and, therefore, provides a firm basis on which regulations for fish trade can be developed.

5.5 National Parks Act, Cap. 227 of 1952

This Act established national parks where human activity was prohibited and the killing, capture and possession of any animal egg or nest without a permit was an offence. The Act also introduced the term vegetation, which was defined as any form of vegetation matter dead or alive.

The control and management of national parks was the duty of the UNP Board of Trustees. It was their duty, among others, to take steps to ensure the preservation and security of the animal and vegetable life in a natural state¹¹. UNP managed the non-consumptive use of the resources in national parks and hunting was prohibited except where a permit was granted. The GD controlled the granting of licences and this contributed to the control of trade in trophies of protected species. Therefore, though this Act came into force before the creation of CITES, its objectives for establishing national parks, which included preservation of wild animals and plants, reflect one of the goals of CITES. This Act was, however, repealed by the Wildlife Statute.

5.6 The Game (Preservation and Control) Act, Cap. 226 of 1959

The Wildlife Statute repealed this Act, and although the Schedules to this Act are still maintained on the statute books, a considerable part which refers to hunting areas, prescribed fees and animals that should not be hunted without a permit is outdated. The prescribed fees are too low and several hunting areas are devoid of animals. Furthermore, with the temporary ban on hunting that came into force in 1979 under *Statutory Instrument No.2* of 1980, which was further amended and made permanent by *Statutory Instrument No. 42* of 1984, the purpose of the Schedules is dormant¹².

It should however be noted that, this Act and the Schedules regulated domestic and international trade through a system of licences. The licences stated the number of animals or birds to be hunted, the authorised area for hunting as well as prohibited methods of hunting, and the prescribed fees. Also, *Section 10* of the Act restricted the sale, purchase or export of scheduled animals or trophies without a licence. This Act, therefore, provided the basis for the implementation of CITES on ratification in 1991.

The GD, which was the authorised entity that granted permits and licences, took over the role of CITES Management Authority and issued CITES permits from 1991.

¹¹ Section 7(2)(b) of the National Parks Act, Cap.227.

¹² The (Game Preservation and Control) (Prohibition) Order S.I 2/80 and S.I 118/82, prohibited hunting of all species and species in the 1st, 2nd and 5th schedules respectively and the orders were to remain in force for a period of five years effective 01/08/79 and 18/10/79. The Game Preservation and Control Prohibition Order No. 42/84 prohibited hunting in all parts of Uganda.

5.7 The Constitution of the Republic of Uganda – 1995

The Constitution of Uganda, which is the supreme law of Uganda, recognises and makes special provisions on the environment. *Objective XXVII* of the national objectives and directive principles of state policy specifically provides for the environment. Under *Objective XXVII (ii)*:

"The utilisation of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of the present and future generations of Ugandans."

The system of decentralisation under the NRM has led to the sharing of roles between the Central Government and the various district/local authorities. *Clause iv (a)* of *Objective XXVII* places the duty of creation and development of parks, reserves and recreation areas and the conservation of natural resources on the State and local governments. Under *Article 237(2)(b)*, the Parliament is obliged to make laws which shall authorise the Central Government or local governments, to hold in trust for the people, and protect natural lakes, rivers, wetlands, forest reserves, game reserves, and national parks, and to reserve land for ecological and tourist purposes for the common good of all citizens. Furthermore, *Article 245* of the Constitution, requires Parliament to make laws which provide for measures intended to protect and preserve the environment from abuse, pollution and degradation, manage the environment for sustainable development and to promote environmental awareness.

One of the crucial provisions in the Constitution, which authorises the execution of treaties, conventions and agreements signed by Uganda, is *Article 123(1)*. Under *Article 123(2)*, Parliament may make laws to govern the ratification of treaties, conventions, agreements or arrangements made between Uganda and any country or international organisation or body in respect to any matter. Additionally, the Constitution, under *Part XXVIII (1)(b)* of the directive principles provides that the foreign policy of Uganda shall among others, be based on the principles of respect for international law and treaty obligations.

With such provisions in the Constitution, a firm background against which national laws can be formulated incorporating provisions from international conventions and treaties has been established. It is, therefore, tenable to argue that the 1995 Constitution has provided the necessary juridical framework through which international environment obligations can be incorporated in national legislation.

5.8 The National Environment Statute, No. 4 of 1995

This Statute is the first comprehensive legislation on the environment in Uganda. It addresses the inadequacies of the natural resource legislation adopted from the Protectorate administration. This Statute introduces the participatory approach in the management of natural resources, aspects of biodiversity conservation, and the recognition of international treaties. The Statute also established the National Environment Management Authority (NEMA), which is the principal agency in Uganda for the management of the environment, with particular mandate to co-ordinate, monitor and supervise all activities in the field of environment.

One of the principles of environment management set out in *Section 3(2)* of the Statute is the equitable use and the conservation of the environment and natural resources of Uganda, for the benefit of both present and future generations. The environment is defined in the Statute to include the biological factors of plants and animals. NEMA, in consultation with the lead agency, is obliged under *Section 43 (1)(b)(ii)* and *(iv)* of the Statute to issue guidelines for the selection and management of protected areas and guidelines on special measures for protection of species, ecosystems and habitats faced with extinction. Furthermore, NEMA, in consultation with the lead agency, is responsible for prescribing measures for conservation of biological diversity, conservation of biological resources both *in-situ* and *ex-situ*.

The Statute affords specific protection for the conservation of species threatened with extinction and the re-introduction of such species into their native habitats and ecosystems where the threat to the species has been terminated or a viable population of the species has been achieved¹³. The Statute also recognises the need to provide measures for the protection of species, ecosystems and habitats threatened with extinction. There is need, however, to put in place, guidelines to implement these

¹³ Section 44, National Environment Management Statute No. 4 of 1995.

provisions, and while the Statute does not specifically provide for trade in threatened species, it does recognise the need to put in place guidelines that will cater for dealings in such species.

On the whole, the Statute incorporates CITES provisions in respect of rescue centres which can be matched with *ex-situ* conservation, prohibition or controlling the introduction of alien species, and the protection of species threatened with extinction.

The Statute under *Section 107* also provides for obligations of the country to international Conventions. *Section 107(1)(c)* empowers the Minister to amend, by statutory order, any instrument other than the Constitution for the purpose of giving a convention or treaty effect. Furthermore, the Minister is mandated to make such other provision as may be necessary giving effect to the convention or treaty in Uganda or for enabling Uganda perform its obligations or exercise rights under the convention or treaty - *Section 107(1)(d)*.

However, the implementation of the natural resource provisions in the Statute is dependent on the preparation of guidelines that will regulate access to and extraction of natural resources for domestic, commercial and research purposes and prevention of extinction of endangered species through trade. And although the Statute makes an attempt to provide for the management of biodiversity, the capacity of NEMA to formulate and implement the regulations remains a challenge.

5.9 Uganda Wildlife Policy of 1995

Policies constitute a set of guidelines against which legislation is derived. It has been argued (Child, 1984) that, at national level, countries adopt wildlife policies which tend to be based on the philosophies and concepts incorporated in international conventions. While at the practical level, the decision-makers could influence these policies; they are subjected to conflicting pressures from various advocates for wildlife protection and use. These include those promoting wildlife-based tourism, trophy hunting interests, the wildlife and wildlife products trade, environmental and conservation organisations, advocates of utilisation and active management, and the extreme preservationists (Child, 1984). Uganda is no exception to these influences. In the 1990's, for instance, the Government formulated policies that have not only included several tenets of international conventions and treaties on wildlife to which Uganda is a party, but have sought to change the management of wildlife in Uganda.

Prior to the 1995 policy document, Uganda did not have any written wildlife policy document. What existed were policy statements derived from the wildlife legislation. The Ministry of Tourism, Wildlife and Antiquities adopted the Wildlife Policy document in November 1995. The Policy was designed to provide guidance in developing a new approach to wildlife conservation in Uganda, and to assist in the creation of the Uganda Wildlife Authority (UWA). However, the policy adopted a narrow approach and was designed to specifically address UWA and the functions it was set to carry out. The policy is, therefore, institutional and not national. This is evident from the following mission statement it shares with UWA.

"To conserve in perpetuity the resources within the national parks and other wildlife areas, and to enable the people of Uganda and the global community to derive ecological, economic, aesthetic, scientific and educational benefits from wildlife."¹⁴

The process leading to the 1995 Wildlife Policy began with two workshops in October and November 1994 followed by other workshops from July to September 1995. The policy document was presented by the Ministry of Tourism, Wildlife and Antiquities and came into force in November 1995.

The 1995 Policy contains strategies, which UWA would use to manage wildlife for the benefit of the nation and to generate revenue from its activities. It also introduces alternative land use and management of wildlife within and outside protected areas, and further sought to provide local communities and private landowners the opportunity to participate in the management of wildlife and benefit directly from its use. The policy document also addressed the issue of persons occupying wildlife-protected areas and alternatives to qualify their continued settlement in the restricted area. It further set out the need for co-operation between government ministries and departments responsible for preservation of natural resources, and the involvement of district authorities in the development of tourism

¹⁴ Uganda Wildlife Policy, Pg. 3.

and natural resource management, both inside and outside protected areas. The responsibility of 'vermin' management and control was placed under the district authorities.

Also, trade in wildlife products is one of the forms of wildlife utilisation referred to in the Policy¹⁵. The Policy refers to CITES, and states that Uganda is currently not permitting any trade, internal or external, in wild animal species or their products. The Policy however, makes reference to exceptions being made when extractive utilisation of animals is permitted.

On the whole, therefore, the Policy introduces the need for the reorganisation of wildlife management and the use of wildlife resources. Previously, the major uses of wild animals were primarily to earn revenue through national park fees and licences granted for trophy hunting. The Policy, however, introduces wildlife use rights to guide the alternative modes of wildlife utilisation. Strategies to be used by UWA in the development of tourism, wildlife education, research and planning are also stated in the Policy.

The 1995 Uganda Wildlife Policy was implemented through the establishment of the Uganda Wildlife Statute, which brought into being UWA in 1996. The provisions in the Statute reflected the issues as set out in this Policy. As earlier mentioned, the 1995 Policy did not address the national Policy on wildlife. It was specifically designed to set out the strategies and functions that UWA would execute on inception. Thus, the Policy has been reviewed, which has resulted in the drafting of the Wildlife Policy of 1999.

5.10 The Uganda Wildlife Statute, No. 14 of 1996

The purpose of the Wildlife Statute is to provide for the sustainable management of wildlife, to consolidate wildlife management laws and to establish the Uganda Wildlife Authority (UWA), which is responsible for the co-ordination, supervision and monitoring of wildlife management. Prior to the establishment of UWA, wildlife management in national parks was the responsibility of UNP and the GD was responsible for wildlife management outside national parks. Wildlife was thus managed by two separate institutions, which placed emphasis on the promotion of tourism in the case of UNP, trophy hunting and collection of revenue through the grant of licences in the case of the GD, both of which excluded local community participation in the management of wildlife. While their roles were complimentary, there was need to have wildlife management under one institution to avoid duplication of roles and to improve co-ordination of wildlife management in different locations.

The Wildlife Statute, therefore, brought the management of wildlife under one institution, the Uganda Wildlife Authority (UWA), and repealed the National Parks Act, Cap. 227 and the Game (Preservation and Control) Act, Cap.226, but retained the Schedules to the Game Act under *Section 94 (1)*. The Statute also amended the Fish and Crocodiles Act by deleting crocodiles from the Act¹⁶, and the management of crocodiles was thus brought under the Wildlife Statute. This Statute further broadens the definition of wildlife to include any wild plant and wild animals, which migrate through Uganda¹⁷. While this wide definition is appropriate, the institutional capacity to manage this extensive wildlife arena both in and outside protected areas remains a challenge.

The Statute provides for protected species under *Part V* and the Minister, on recommendation of the UWA Board, may declare any species of wild plant and animal a protected species.¹⁸ However, the modalities on how such a declaration will be coordinated with other organisations responsible for wildlife outside UWA's jurisdiction, such as the Forest Department, is not entirely clear and may cause institutional discord within government. Additionally, *Section 28 (4)* of the Statute requires that an order declaring a species to be protected shall state whether the species is fully protected and not subject to wildlife use rights. *Section 50* of the Statute sets out the prohibited methods of hunting protected species.

The Statute also allows trade in wildlife and wildlife products¹⁹ as one of the wildlife use rights. However, in view of the low numbers of particular animal species, trade will only be permitted in exceptional circumstances. Other wildlife use rights provided for under *Section 30* include hunting, farming, ranching, use of wildlife for educational and scientific purposes and general extraction. These

¹⁵ Ibid. Page 28.

¹⁶ Section 94(3), Wildlife Statute, No. 14 of 1996.

¹⁷ Ibid. Section 2.

¹⁸ Ibid. Section 28(1)

¹⁹ Ibid. Section 30(d)

alternative uses of wildlife have introduced novel conservation and management principles, which is one of the successes of this legislation. The use of wildlife resources has expanded from its strict functions as a tourist attraction and revenue earner from trophy hunting and cropping, to accommodation of indigenous medicinal and subsistence uses.

The Wildlife Statute also provides for international trade in species and specimens²⁰. The Minister responsible for trade has the mandate to make regulations imposing additional restrictions on imports, exports, transit or re-export of specimens, and may incorporate requirements under any convention or treaty²¹. Sections 68 and 91 of the Statute provide the enabling provisions for regulations on the implementation of CITES in Uganda. Section 91 of the Statute makes reference to the ratification of international conventions and treaties on wildlife management in accordance with the Constitution, and how the Minister, with parliamentary approval, may make an order to give the convention/treaty the force of law. Progress has been made in this direction through the draft Wildlife (Endangered Species Convention) Regulations that have been prepared and that are currently under discussion. Highlights of the draft Regulations will be discussed later.

Administrative measures prohibiting trade in flora until regulations governing access to genetic resources are on the statute books²² and are being exercised. In the absence of legislation, the practical implementation of these measures is yet another challenge.

The Statute further recognises the community as crucial players who would assist in decision making and management of the wildlife resource. This is a shift from the previous situation where the State exclusively controlled and managed natural resources to the exclusion of local communities²³.

The Statute also provides for the setting up of local wildlife committees, which manage and advise UWA on the status of wildlife in the area. Furthermore, a person or community or lead agency may apply for one or more wildlife use rights²⁴ and manage the wildlife resource and habitat in a sustainable manner²⁵. There is, therefore, need for the enactment of wildlife use rights regulations, which will provide for the permitted alternative uses for wildlife and benefits will accrue directly to the holder of the right.

The Wildlife Statute incorporates the commercial aspect of wildlife management, through the introduction of the private sector in the management of protected areas²⁶. The efficient management of wild plants and animals as well as their natural habitats is expensive, especially taking into consideration the large areas covered by protected areas. The acceptance of private firms to improve the infrastructure and management of protected areas is an avenue that will, to a large extent, assist the Government in the management of wildlife resources. UWA, however, has to take caution and put in place an effective monitoring system in areas where private firms are granted management rights, because they can be abused leading to loss of Ugandan wildlife.

The Statute, while allowing a private developer that right to engage in a commercial activity in the protected areas, makes it mandatory for the developer to conduct an environmental impact assessment and environmental audits and monitoring²⁷ in accordance with the National Environment Statute. And, although commercial use has not yet been granted to private companies, this provision serves to ensure and encourage private enterprises within protected areas to incorporate environment management principles in their activities.

²⁰ Ibid. Sections 66-68

²¹ Ibid. Section 68(1).

²² A workshop was held in April 2000 to discuss the draft regulations on Access to Genetic Resources where the provisions were amended and the Regulations are subject to approval when presented by the Minister.

²³ UWA executes wildlife resource extraction and management agreements with groups or associations. UWA has executed an agreement with the Kabirizi Wild Coffee Resource User Group allowing the local community to harvest wild coffee in Kibale National Park (UWA & Kabirizi Parish, 1999). Other agreements allow communities to collect medicinal and other resources from a protected area (UWA & Kifunjo and Masya Parishes, 1999; UWA & Nyabweya Parish, 1999); perform bee-keeping activities (UWA & Kaara Parish, 1999; UWA & Mgahinga Beekeepers, 1999); participate in the protection and management of protected area boundaries (Mt. Elgon National Park & Tangwen Parish, 1999); and manage problem animals (UWA & Bushura Parish, 1999).

²⁴ Ibid. Section 32.

²⁵ The established wildlife use rights in the Statute include hunting, farming, ranching, trading in wildlife and wildlife products, educational or scientific purposes including medical experiments and development, general extraction and any other use rights created by the Minister.

²⁶ Section 15 of the Wildlife Statute.

²⁷ Ibid. Sections 16 and 17.

The Statute, in line with the decentralisation policy of Uganda, involves local governments in the management of wildlife resources. Local governments are authorised to appoint wildlife committees, which will advise UWA on the management and utilisation of wildlife within their jurisdiction²⁸. This is a noble idea since it involves the community, which is in close proximity to wildlife resources. The local community is better placed to detect any activity going on in their area and provide options that are practical to the management of wildlife in the area. While local governments are given the mandate to advise UWA on the management of wildlife within their jurisdictions, this mandate has recently been put to test in Luwero district, an area that is rich in wildlife such as elephants, hippos, buffaloes and other wild animals²⁹.

The Statute in addition, provides for the sharing of funds accrued from wildlife management with local governments. Under *Section 70(4)*, the local government of a community surrounding a protected area is entitled to 20% of the park entry fees collected. This is an incentive to the local government and community to ensure that wildlife resources are protected.

Furthermore, the Statute introduces the concept of public participation. For example, *Section 18* provides that before an area is declared a wildlife conservation area, consultation with the local government council of the proposed area has to be conducted. This system involves the community in making decisions for the management of the natural resources in their area. Effective consultation with the community will eliminate conflict between UWA and local people, and sustainable management will be possible in an area declared a wildlife conservation area with the consent of the local community.

The Wildlife Statute sets out the general penalty and the specific penalties for offences relating to the hunting, taking into possession, buying, selling, export, import or re-export of a specimen of protected species³⁰. The Statute further provides that a fine in respect to a person convicted of an offence relating to protected species, shall not be less than the value of the specimen involved in the commission of the offence. The conviction for an offence in respect of import, export and re-export of protected species carries a heavier sentence of a fine of not less than ten million shillings or imprisonment for a term of not less than seven years. The Statute sets out stringent penalties and makes forfeiture of specimens and tools used in carrying out the offence an additional penalty.

In addressing illegal trade in wildlife, including the removal of protected plants from their natural habitat and the killing of animals, the Statute authorises courts to order the forfeiture of profits obtained from the illegal trade, in addition to other penalties³¹. The provisions carry penalties, which could act as a deterrent to those engaged in offences relating especially to protected species.

From the provisions mentioned above it can be noted that, although the Wildlife Statute does not expressly mention CITES, it makes reference to international conventions, and international and domestic trade in wildlife specimens. Protected species are accorded considerable protection in the Statute and the penalties set out are stringent. The Statute expressly provides for the background against which CITES legislation can be prepared under *Sections 68(1)* and *91*. The burden is thus shifted to the legislature and the designated wildlife resource institutions to ensure that domestic legislation, which incorporates CITES provisions, is enacted.

5.10.1 Weaknesses of the Wildlife Statute

The Statute, like any other piece of legislation, has some loopholes that will hinder its effective implementation. This may arise partly from the failure of the designated institutions to put in place regulations in time, thereby creating a gap when faced with a scenario which would have otherwise been

²⁸ Ibid. Section 13.

²⁹ This area is not gazetted as a protected area, although UWA has rangers there who are in charge of management of the wild animals. Wildlife migratory routes in this area were blocked by human settlement (State of Environment Report for Uganda, 1998). The Luwero elephants have become a controversial issue, with some calling for their translocation and others proposing that their habitat be designated a wildlife sanctuary. The President has proposed that they be shot following complaints of damage to crops and water wells from the locals. The Kabaka of Buganda advocates for the elephants to be left in their natural habitat and have it converted into a tourist attraction (The Monitor, 05 June 2000), a position supported by the Luwero LCV chairman who is quoted to have said " I must use the decentralisation powers to plan for my district" (The Monitor, 21 May 2000). The fate of the elephants and other natural fauna in the area is yet to be determined.

³⁰ Sections 75 – 77, Wildlife Statute.

³¹ Ibid. Section 82.

catered for by the regulations. For example, the failure to enact regulations on protected species raises questions about the level of interest of authorities responsible for the protection of endangered species.

It is four years since the Statute came into force and no order declaring protected species has been made. The Statute thus relies on the Schedules to the repealed Game (Preservation and Control) Act, which unfortunately, do not reflect the current status of endangered wildlife species. The failure, therefore, to have guidelines on protected species has led to the lack of effective identification and protection of endangered species.

Part VI of the Statute provides for wildlife use rights. The guidelines, which will set out the permitted wildlife use rights, are still in draft form. In addition, *Section 28(4)* provides that an Order be made to declare which protected species are fully protected and not subject to wildlife use rights. The news media regularly reports situations where individuals are in possession of endangered species as pets³². The guidelines for wildlife use rights should cater for the omission in the Statute on the possession and use of endangered species as pets.

Besides that, the subject of protected species is crucial to a number of provisions in the Wildlife Statute, and failure to have an updated protected species list has led to the lack of effectiveness in implementing measures to combat illegal activities. For example, the Statute prescribes methods of hunting protected species and prohibits the killing and wounding of protected species. Therefore, the absence of a contemporary protected species list is a loophole that is making the enforcement of some provisions in the Statute impracticable, which will continue to be exploited to the detriment of endangered species.

Although the Statute took over the management of crocodiles³³, the crocodile is not afforded any protection in the Statute and in the Schedules of protected species under the repealed Game (Preservation and Control) Act, and is therefore not subject to restrictions on hunting or taking³⁴. Although the hunting ban prohibits the hunting of all animals, there is need for specific provisions that protect the Nile crocodile which is listed under CITES Appendix I.

Furthermore, *Part IX* of the Statute addresses problem animals. Under *Section 58*, the Board, on the advice of the Executive Director of UWA, may declare an animal or class of animals to be vermin. Such a declaration has yet to be made. Prior to 1996, vermin control was the responsibility of the Game Department. This responsibility however, is currently placed on district councils under the Local Governments Act³⁵. Without the declaration of problem animals, district councils are disabled from carrying out this provision in the Wildlife Statute³⁶.

Sections 23 and 24 of the Statute make it an offence to enter, reside or harvest resources in protected areas without a permit. While these prohibitions do exist, rangers in different protected areas have recorded a number of illegal activities over the last few years (**Table 10**).

³² The New Vision, 4th June 2000, reported that the European Union Conservation Chief is in possession of two rare grey parrots, which he has kept since 1999 at his Kololo residence. This revelation is only the tip of the iceberg because several persons are keeping endangered species as pets, without documentation. In the absence of legislation that provides guidelines on the ownership of endangered species and the related penalties, the EU official and many others will continue to possess these pets.

³³ Ibid. Section 94(3)

³⁴ Ibid. Section 29

³⁵ Second Schedule part 2, Section 5(ii) of the Local Governments Act.

³⁶ The Luwero elephants continue to destroy water wells, crops and are threat to the lives of the residents in the villages of Wakyato. Questions can be raised as to whether these elephants may be considered as vermin.

Table 10: Illegal Activities Recorded in the Protected Areas

| ILLEGAL ACTIVITY | PROTECTED AREA | | | | | | | | | |
|---------------------|----------------|------|------|------|-------|------|-------|------|------|------|
| | MFCA | | MGNP | | BINP | | QECA | | LMNP | |
| | 1998 | 1999 | 1998 | 1999 | 1998* | 1999 | 1998* | 1999 | 1998 | 1999 |
| Bee hive | - | - | - | 3 | - | - | - | - | - | - |
| Canoe | 6 | 13 | - | - | - | - | - | - | - | - |
| Cattle/goat | - | - | - | 32 | - | 1 | - | - | 500 | 26 |
| Charcoal | 2 | 2 | - | - | - | - | - | - | - | - |
| Dead Buffalo | 1 | 6 | - | - | - | - | - | - | - | - |
| Dead Kob | - | - | - | - | - | - | - | 1 | - | - |
| Grazing | - | - | - | 19 | - | - | - | - | - | - |
| Homestead | - | 114 | - | - | - | - | - | - | - | - |
| Hut | - | 248 | - | - | - | - | - | - | - | - |
| Pitsawying | - | 18 | - | - | - | 11 | - | - | - | - |
| People | - | - | - | - | - | - | - | 54 | - | - |
| Poachers | 9 | 85 | - | - | - | - | - | - | - | - |
| Poachers arrested | - | 32 | - | - | - | 1 | - | - | - | - |
| Poacher Camp (old) | 10 | 8 | - | - | - | 1 | - | - | - | - |
| Poacher Camp (used) | 13 | 32 | - | - | - | - | - | 21 | - | - |
| Snares | 230 | 101 | 25 | 137 | - | 28 | - | 18 | - | - |
| Suspect arrested | 24 | 56 | - | - | - | - | - | - | - | - |
| Trap Metal | - | 3 | - | - | - | - | - | - | - | - |
| Tree felled | 15 | 52 | 32 | 99 | - | 13 | - | 3 | - | - |
| Wood Collection | - | 4 | - | - | - | 10 | - | 1 | - | - |

Source: Uganda Wildlife Authority (UWA)

Although **Table 10** provides records for only two years, the existence of illegal activities in these protected areas brings into question the effectiveness of wildlife law enforcement and community involvement in the protected areas. The Statute in several sections makes reference to hunting as a Class A wildlife use right³⁷, the methods of hunting and taking, and the responsibilities of hunters³⁸. The Statute saved the Schedules to the repealed Game (Preservation and Control) Act which provide for the former controlled hunting areas referred to as wildlife management areas. Such reference to hunting in the Statute conflicts with the ban on hunting of 1979. The ban is still in effect and so any reference made to hunting in the Statute serves no purpose at the present time. There is, therefore, a need to harmonise the laws on the subject of hunting.

Convictions have been made under the Statute, mainly under *Sections 31 and 75(a)*. However, the penalty imposed under *Section 75 (a)* is a general one, and yet the products or wild animals or plants seized are often CITES-listed species that should draw more stringent penalties as provided under *Sections 76 and 77 (Table 8)*.

* Systematic Ranger Based Data collection started in 1999 in QECA and BINP

³⁷ Section 30(1), Wildlife Statute.

³⁸ Ibid. Sections 50 – 55.

For example, in **CRB/32/2000 Uganda vs. Oliveira de Sausa**, the accused, a Portuguese national, was found in possession of seven pieces of ivory and 25 hippo teeth and was arrested at Entebbe International Airport. He was charged with utilisation of wildlife products without a grant of wildlife use rights contrary to *Sections 31 and 75(a)* of the Wildlife Statute. The accused pleaded guilty and was convicted and sentenced to a fine of US\$150,000, equivalent to approximately US\$90. The fine in this case was very low compared to the value of the wildlife products, which are listed under CITES Appendix I.

The Statute further makes reference to migratory animals. However, their habitats are not specifically protected. Wild animals usually migrate during the various seasons, but human settlement has blocked a number of migratory routes causing human and animal conflicts³⁹. While the Statute makes provision for persons to reside in protected areas, there is need to include a provision protecting migratory routes and corridors against encroachment.

It can, therefore, be argued that, while the Statute does have loopholes, and may be subjected to amendments, it does incorporate the needs set out in the 1995 Wildlife Policy. The passage of time has put the Statute to test and changes in management of wildlife are bound to result in the amendment of the Statute to address the omissions. A 1999 Draft Wildlife Policy has, therefore, been prepared and is currently under discussion.

5.11 The Ratification of Treaties Act, No. 5 of 1998.

This Act provides the procedure for ratification of treaties. Although it does not directly refer to wildlife protection, it is crucial because it is an enabling law, which imports international conventions into national laws.

While the Constitution authorises the President, or a person so authorised, to make treaties, conventions or agreements between Uganda and any other country or international organisation, signature alone does not automatically bring such documents into law.

The Ratification of Treaties Act is, therefore, an enabling law in that it sets out the procedure for ratification of treaties, by the Government of Uganda. The term "treaty" under *Section 2* of the Act includes a convention, agreement or other arrangement made by the President or a person so authorised.

The Act has, therefore, provided an avenue through which Uganda can incorporate the various international conventions, treaties and agreements it has ratified into national law. Therefore, wildlife conventions such as CITES to which Uganda is a party will find their way into the national law books. Efforts are being made by different lead agencies concerned with environmental issues to prepare draft regulations that incorporate international and regional agreements such as CITES, CBD and the Lusaka Agreement.

5.12 Forest Nature Conservation Master Plan – 1999

The Plan sets out the strategies of the Forest Department for integrating biodiversity conservation with other aspects of natural forest management throughout the national forest reserves. The strategy is based on the establishment of a national system of strict Nature Reserves accounting for 20% of the forest estate designated within the country's forest reserves.

In order to satisfy multiple-use, forest reserves are best divided into clearly defined zones. Each zone is dedicated to a particular use and management regime. The zoning regimes in the forest reserves are as follows: 20% is dedicated to biodiversity; 30% to environment protection, allowing some low impact uses; and 50% is managed for production of timber and other forest products, such as building poles, fuel wood, and non-wood forest products. The Plan, therefore, provides guidelines for revising the current forest law and policy and the institutions that will be involved in the management of the proposed forest plan.

³⁹ Illegal settlements in L. Mburo National Park and Kibale National Park corridor have contributed to human-animal conflicts as they struggle for similar resources.

5.13 The Draft Uganda Wildlife Policy – 1999

This Policy was prepared by the Wildlife Policy Review Panel, which was appointed by the Ministry of Tourism, Trade and Industry. The mission of the national wildlife policy is:

"To conserve in perpetuity the rich biological diversity and natural habitats of Uganda in a manner that accommodates the development needs of the nation and the well being of its people and the global community".

The new approach to wildlife conservation, as set out by the Policy, is the need to cater for the co-existence of wildlife and human populations with the primary objective of conserving the nation's biological diversity. The National Policy, therefore, sets out challenges, strategies, and objectives to be used in wildlife conservation in Uganda.

The challenges as set out in the Policy are:

- ❑ Protection of areas with high levels of biodiversity.
- ❑ Protection of endangered species and sustained management of Uganda's wildlife.
- ❑ Inclusion of the private sector, communities, and NGOs in the management of natural resources and implementation of the Policy.
- ❑ Provision of a framework for the management of wildlife outside protected areas, where the local communities and district authorities shall play a role.
- ❑ Management of wildlife conservation areas according to a comprehensive national strategy and improved management plans.
- ❑ Establishment of wildlife-related monitoring and research, which directly contributes to wildlife management and conservation.

It is against the above challenges that the Policy has set out objectives and strategies to address the challenges.

The implementation of CITES hinges on two tools: wildlife conservation and control of international trade. The 1999 Policy provides a framework from which programmes can be developed which should contribute to the survival of all wildlife species, and the protection of those that are threatened or endangered. The Policy further includes both tools necessary for CITES implementation, by providing for various conservation and management methods of the wildlife species. It also refers to wildlife trade as one of the wildlife use rights, which may be granted for wildlife species that are bred in a controlled environment. The Policy in addition includes strategies to be used in conservation, to ensure that the local communities are included as wildlife managers and allowed access to previously restricted areas to harvest resources in a sustainable manner. The local communities are given the responsibility to monitor and ensure that the wildlife resources in their areas are protected and/or used in a sustainable manner.

The Policy also provides for the promotion of positive attitudes towards wildlife conservation through education and public awareness campaigns. The implementation of the Policy is however, dependent on UWA and other institutions allocated specific functions under the Statute.

The other tools that are set out in the Policy, which will ensure policy implementation, include:

- ❑ conducting research and monitoring the management systems,
- ❑ the development of park management plans,
- ❑ the inclusion of non-governmental organisations (NGOs) and the private sector in management of protected areas and wildlife resources,
- ❑ the promotion of regional and international co-operation to ensure effective monitoring of wildlife trade and poaching, and
- ❑ the establishment of an effective monitoring and evaluation system, which will assess the impact of the policy and conservation programmes.

On the whole, the 1999 Policy makes an attempt to include the rationale behind the drafting and bringing into force the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). In recognition of the low wild animal populations in Uganda, strategies to protect and increase

their numbers had to be put in place. The Policy, therefore, sets out the various measures to be undertaken in order to ensure the protection and conservation of wildlife resources in Uganda and the need to adopt regional and international measures to protect these resources.

One of the major setbacks of this Draft Policy however, is its failure to reflect the cross-sectoral linkages in the management of wildlife. The implementation of the Policy is the responsibility of UWA. While the Policy mentions that particular sections of the Policy shall be implemented by other institutions listed in **Appendix I**, it omits the lead agencies on the subject. The Policy thus reverts to the sectoral approach of natural resource management and ignores the need for the consolidated management of wildlife resources by the various key players.

5.14 The Draft Forest Policy – 2000

The Uganda Forestry Policy 2000 makes an attempt to address the omissions in the 1988 Policy. The Draft 2000 Policy provides for the sustainable management of forests on private land, community participation in forest management, support for farm forestry, and emphasises the need for the continued support and implementation of international conventions/agreements relevant to the forest sector. The Policy addresses access to genetic resources and trade under endangered species conventions, which are essential in the conservation of forest biodiversity.

The Policy 2000 further advocates for the establishment of a Permanent Forest Estate (PFE), which includes gazetted Central and Local reserves. The forest estate is currently threatened by development projects, which seek to destroy sections of it for commercial purposes. Therefore, there is a need to strengthen the legal basis for a PFE in the draft policy. Forest degazettement should cease to exist as a practice of government as it is contradictory to the concept of a PFE.

The Draft Forest Bill, which is in its final stages of development, provides for the management of private forests and the replacement of the Forest Department with an independent institution, the Forest Authority. The Draft Bill emphasises the use of forest produce for commercial and conservation purposes and provides for control of trade and implementation of international conventions. It also includes measures that are intended to create a balance between production and conservation, and makes it mandatory for a developer to undertake an EIA prior to conducting any project that may have significant impact on forest resources or local communities.

The Draft Forest Bill, therefore, provides for the sustainable utilisation and management of forests on government and private lands, takes cognisance of the need for a balance between trade and conservation, and includes the private sector and local communities in the management of the forests.

5.15 The Draft Wildlife (Endangered Species Convention) Regulations of 1999

Under Article VIII (1) of CITES, Parties are obliged to take measures to enforce the provisions of CITES. The effective implementation of CITES is, therefore, dependent on the existence of domestic legislation, which shall, inter alia, provide for the grant of permits, penalties and other related matters specific to CITES-listed species.

Uganda, however, like the majority of the parties to CITES, has enacted no specific legislation to implement CITES. Uganda has relied on the general wildlife legislation and customs regulations to control trade in endangered species and their products. Most wildlife legislation are ill equipped to secure compliance to obligations under CITES. Additionally, the wildlife legislation that existed prior to 1991 addressed specific categories of specimens, products and operations and placed more emphasis on animals than plants. Trade was regulated by a licence system, which authorised trade in scheduled or non-scheduled animals. CITES, on the other hand, aims at regulating international trade in wildlife plant and animal species on the basis of a permit system, which is governed by specific procedures. Therefore, there is need to have legislation that caters for this specific system with its procedures, and that functions together with any other national measures relating to the import and export of specimens of wild animal and plant species set out in existing wildlife legislation.

To this end, Uganda has prepared Draft Wildlife (Endangered Species Convention) Regulations, which are intended to be the implementing legislation for CITES. The first draft was prepared in 1998 and revised in 1999 (**Annex I**). While the Draft Regulations have attempted to address certain obligations of the provisions in CITES, there are some omissions which need to be addressed.

5.15.1 Definitions

One of the purposes of the definition section in legislation is to avoid uncertainties in the meaning of the words in the text. The definition section of the Draft Regulations requires some additional inclusions and amendments.

The definition of "specimen" is incomplete as it defines specimen to mean any animal or plant whether alive or dead of species listed in the first and third Schedules, but omits the second Schedule. The terms "readily recognisable", "derivatives", and "acquired" need to be defined⁴⁰.

Uganda may wish to adopt the Australian provisions which define an animal specimen as "a live or dead animal, animal reproductive material, the skin, feathers, horns, shell or any other part of an animal or any article produced by or from otherwise wholly derived from an animal" (de Klemm, 1993). A similarly comprehensive definition should also apply to plants.

Under *Regulation 8(3)*, the "Personal or household effects" of non-Ugandans are exempt from the trade restrictions set out in *Regulation 7(2)(a-d)* of the Draft Regulations. The definition in the Draft Regulations may be abused especially where one may possess products and derivatives of CITES-listed species that are likely to be heavily affected by trade. It is proposed that the definition could be expanded to include the phrase, "and which are not intended for sale". In addition, Uganda may adopt stricter measures by imposing the need for a CITES permit for the import, export or re-export of any products of CITES-listed species which are personal or household effects. Such holder may also be required to obtain a certificate of ownership from the relevant national wildlife authorities, to legalise the possession of such wild animal and plant products in Uganda.

5.15.2 Institutional Arrangements for Enforcement of CITES

Under *Article VIII (1)* of CITES, parties are obliged to take any legislative or regulatory measures to ensure that the prescriptions of the Convention are adequately enforced. It is thus desirable that the enforcement agents are appointed and given tasks.

Part II of the Draft Regulations sets out the institutional arrangement for CITES enforcement, which include the Management Authority, Scientific Authority and any competent authority.

The express mention of Customs officials at the points of exit and entry has been omitted by the Draft Regulations. Customs Departments are universally recognised as the body responsible for the control of imports and exports of goods. Therefore, they are a necessary institution to include in the enforcement of these regulations as they are usually the only organisation empowered to search consignments of goods which are presented at Customs control points. Furthermore, the Customs officials are authorised to make seizures of prohibited goods, some of which include wildlife species and their derivatives. For example, the Customs officers at Entebbe International Airport intercept and carry out seizures of plants, animals and wildlife products which they hand over to UWA or the phytosanitary and quarantine inspectors.

It should be noted however, that the Customs officials usually do not have the necessary expertise to easily identify wild plants and animals and their derivatives. Seizures of wildlife species or their derivatives are usually made in cases where they can be easily identified, such as ivory. Therefore, there is a need to consider the establishment and training of a specialised unit that will operate at the points of entry and exit.

5.15.3 Functions of the Management Authority

Regulation 4(1) designates the "Commissioner" as the Management Authority thus granting an individual this role. This is an irregularity, which should be addressed and the Draft Regulations amended, to provide for the designation of a public institution as a management authority.

Regulation 7(1) of the draft regulations authorises a relevant competent authority or the Management Authority to grant permits, certificates or licences. This provision can be interpreted to mean

⁴⁰ Applications to export fecal and hairs specimens of mountain gorillas, which are CITES Appendix I species, have been made. The fecal specimens were not considered derivatives by the issuing authority and an export permit was granted.

that either the Management Authority or any other competent authority can issue CITES permits, since these Regulations are specific to CITES-listed species.

While the competent authorities are required to advise the Management and Scientific Authorities on the status of a particular plant or animal species, the granting of permits and certificates for CITES listed species, is and should be the sole responsibility of the Management Authority. It is proposed that *Regulation 7(1)* be amended accordingly.

Furthermore, the term "competent authority" is neither defined in the Draft Regulations nor included in the CITES text. It is thus proposed that the term be either defined or deleted to avoid the confusion of roles with the already defined management and scientific authorities.

Under *Regulation 5 (4)(c)*, one of the functions of the Management Authority is to grant, cancel or perform such other functions with respect to permits and certificates. It is proposed that the Management Authority be given the discretionary powers to revoke, modify and cancel any permit.

Regulation 5(4)(c) should, in addition, include the conditions under which a permit may be cancelled, revoked or modified⁴¹. In addition to the option of revocation provided in *Regulation 5(4)(c)*, there is need to incorporate a procedure to be followed, on revocation, modification or suspension of a permit. For example, provisions on a period within which notice is given to a permit holder whose permit has been revoked, suspended or cancelled.

Also, the Management Authority should be empowered to disqualify a person temporarily or permanently from obtaining a permit or a certificate. The factors that may lead to such disqualification can be the prohibited acts as set out in the wildlife legislation and these Draft Regulations. Such disqualification could act as a deterrent to illegal trade.

One of the obligations of the Management Authority is to ensure that prior to granting an export, import or re-export permit, "any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment." Neither the Draft Regulations nor the Wildlife Statute create standards to ensure live species are, in fact, properly prepared and shipped. The transportation of live species often results in injuries and mortalities. It is proposed that the Draft Regulations sets out standards for shipment and packaging of live species that are subject to international trade.

Furthermore, *Regulations 5(2)(d)(1)* and *6(2)(c)* of the Draft Regulations require that, "the proposed recipient of a living specimen is suitably equipped to house and care for it." However, the requirement to be "suitably equipped to house and care" for a living CITES-listed species is not defined. The handling of living species by breeders or traders prior to export may subject the lives of the species to danger. It is thus proposed that, the terms be defined and that standards be developed in this area.

The availability of information to the public is crucial in the management of wildlife resources. It is proposed that the Management Authority publish in the Gazette the permits granted or rejected, the specimens exported or imported, and any other relevant information pertaining to wildlife trade in Uganda.

5.15.4 Prohibitions and Offences

Prohibitions on trade or offering CITES-listed species for sale are set out in *Regulation 7* of the Draft Regulations. While the list includes several prohibitions, it is proposed that the following be added:

- a) the use of invalid or forged permits,
- b) making false and misleading statements in permit applications and/or to enforcement officers, and
- c) obstructing or hindering an enforcement officer conducting his/her duties.

Apart from the mention of the relevant section of the Wildlife Statute in *Regulation 7(3)* of the Draft Regulations, the contents of the penalty for the offences are not included in the draft text. For the purposes of clarity, the Draft Regulations should set out the details of the penalties for the offences created.

⁴¹ Uganda may wish to adopt the position of the Singapore Management Authority which is authorised to cancel a permit at any time, "if any condition of the permit is contravened", or "when it is satisfied that the permit was issued as a result of a misleading statement or a misrepresentation of a material fact."

Regulation 7(2)(f) of the Draft Regulations prohibits a person to engage in domestic trade in any species listed in the Second and Third Schedules. The Draft Regulations omit the prohibition of domestic trade in species listed in the First schedule, which includes the CITES Appendix I, II and III species. Domestic trade in chimpanzees, grey parrots and wildlife trophies is carried out in Uganda (**Table 8**). There is need, therefore, to put in place a provision in the Draft Regulations to cater for such trade and a permit system for domestic trade in CITES-listed species.

5.15.5 Penalties

The Draft Regulations do set out penalties imposed. Additional penalties can be included, such as seizures, where the enforcement officer has reason to suspect that a specimen is being imported or exported or is possessed or traded in contravention of the law. In addition to the imposition of monetary or prison penalties, the Draft Regulations may include the confiscation of or return to the country of origin, any illegally traded CITES Appendix II and III species as is set out in *Article VIII (1)* of the Convention.

5.15.6 Financial Matters

The Management Authority is a government official, who relies on the treasury for funding his operations. It is proposed that a fund is set up to supplement government funding and that the Management Authority benefits from revenue collected from application fees, permits, and fines for offences. However, in order to ensure accountability in the issuance of permits and the use of the collections, the Management Authority should be answerable to a higher institution such as the Inspector General of Government or the National Environment Management Authority (NEMA).

5.16 Harmonisation of the Regulatory Framework for CITES Implementation

For the effective implementation of CITES in Uganda, there is need to amend and enact legislation which will incorporate the provisions of the Convention. As argued earlier in the document, on ratification of CITES, Uganda did not have a CITES specific framework responsible for the implementation of the Convention. After ratification, the Chief Game Warden continued with the role of issuing national licences and CITES permits until a Management Authority was appointed. Besides that, the Wildlife Statute is not equipped for CITES implementation and it merely provides the enabling law against which domestic legislation on CITES can be enacted. Attempts by the Statute to provide for protected species is rendered ineffective since a detailed list of such species is non-existent. Furthermore, it does not provide for the institutional framework against which the CITES can be implemented.

The Draft Wildlife (Endangered Species Convention) Regulations of 1999 provide for the management of wildlife trade through the listing of species in three schedules. The first schedule contains species listed under CITES Appendix I, II and III. The second and third schedules contain nationally endangered species of plant and animals which may or may not have been listed on the CITES appendices and species in which both national and international trade may be authorised. It is also envisaged that the enactment of the Draft Wildlife (Endangered Species Convention) Regulations will provide a harmonised legislative framework for the implementation of CITES. Such enactment will also necessitate the amendment of the Fish Act, Plant Protection Act and the Forest Act to reflect the new approach of sustainable wildlife management and their role in CITES implementation.

SECTION SIX

Review of Ugandan Wildlife Management Institutions since CITES Ratification

6.1 Game Department

The Uganda Game Department (GD) came into being in 1925. Its original mandate was wildlife management and conservation in Uganda. However, after the formation of Uganda National Parks (UNP) in 1952, the Game Department's mandate covered all wildlife outside national parks, including wildlife in game reserves, wildlife sanctuaries and controlled hunting areas. The Game Department's mandate also permitted consumptive wildlife utilisation outside national parks and gave it the responsibility for protecting humans and preventing crop depredation by wildlife.

After Uganda's ratification of CITES in 1991, the Chief Game Warden of the GD, whose legal mandate had always included issuance of wildlife export permits, assumed the responsibilities of a CITES Management and Scientific Authority for fauna. These responsibilities were not legally mandated, but were assigned administratively through powers vested in the Minister of Tourism, Wildlife and Antiquities. The Chief Game Warden was also responsible for the preparation of CITES annual reports submitted to the CITES Secretariat. But the systems and processes under which the Management and Scientific Authorities coordinated their activities and under which CITES permits were issued is neither documented nor entirely clear. It is evident however, that many of the provisions under CITES were carried out at the discretion of the Chief Game Warden, and later, the Commissioner of Wildlife.

6.2 Uganda National Parks

The major responsibility of Uganda National Parks (UNP) from its inception in 1952 to its termination in 1996 was the management of wildlife within the confines of Uganda's national parks. After Uganda's ratification of CITES in 1991, UNP never took on any specific role in CITES implementation. Consultation between the GD and UNP occurred as part of the process of trade in wildlife. However, the level of coordination between UNP and the GD with regards to the implementation of CITES provisions is not clear. The role of UNP in CITES implementation appears to have been nominal due to the mandated non-consumptive utilisation in national parks.

6.3 Forest Department

The Forest Department (FD) manages Uganda's network of over 700 forest reserves. As the country's primary authority on wild plants, the FD has played the role of a CITES Scientific Authority for plants since Uganda's ratification of CITES in 1991. The Department's role in CITES implementation has been and still is, to advise the CITES Management Authority on the issuance of CITES export, re-export and import permits, and to monitor populations of wild plants in Uganda. Currently, this responsibility is primarily that of the Nature Conservation Officer/Desk Officer - CITES.

However, the extent to which the Forest Department coordinated CITES implementation with the Management Authority immediately after Uganda's ratification of CITES in 1991, is not entirely clear. But since legal trade in wild flora during the 1990s in Uganda was at a minimum, it is acknowledged that there were very few instances where the enforcement of CITES provisions was required. A catalogue of CITES-listed plants indigenous to Uganda (**Annex II**) was compiled by the Department in 1993 and has since been updated and circulated to the Management Authority and the Plant Quarantine and Inspection Services. But there is still need to register nurseries in Uganda that artificially propagate CITES-listed plants in order to manage and monitor their legal trade.

6.4 Commissioner for Wildlife – Ministry of Tourism, Trade and Industry (MTTI)

After the restructuring of the wildlife sector, the Minister in the former Ministry of Tourism, Wildlife and Antiquities designated the Commissioner for Wildlife as the CITES Management Authority in August 1999. The Commissioner assumed all the responsibilities of a CITES Management Authority, including the issuance of CITES export, re-export and import permits. The Commissioner is also responsible for preparing CITES annual reports, convening meetings of the Scientific Authorities, and communicating with the CITES Secretariat. The responsibilities of a CITES Management Authority are currently being performed by the Assistant Commissioner of Wildlife, who is also the Chairman of the Technical Committee on Biodiversity Conservation.

6.5 Uganda Wildlife Authority (UWA)

The Uganda Wildlife Authority (UWA) came into existence in August 1996, after the wildlife sector restructuring process and the enactment of the Wildlife Statute. UWA is responsible for the management of Uganda's 38 wildlife protected areas (**Table 1**). UWA also currently performs the role of a CITES Scientific Authority for fauna. Its current role in CITES implementation is to advise the CITES Management Authority on the issuance of CITES export, re-export and import permits based on its responsibilities as the primary wildlife management authority in Uganda. However, UWA's activities as a Scientific Authority in the first two years after its inception were minor.

6.6 Department of Fisheries Resources

The Fisheries Department was formed in 1961 and is the body charged with monitoring and managing the fisheries resources and enforcing applicable regulations. One of its five long-term goals is to develop and manage the fisheries sector in such a way that the future exploitation of resources is not endangered. The Department, therefore, should have a direct interest in CITES implementation as a Scientific Authority. However, its role in this regard has been peripheral thus far.

6.7 National Environment Management Authority (NEMA)

The National Environment Management Authority (NEMA) came into being in 1995 through the National Environment Statute, and was charged with the duty to coordinate, monitor and supervise all activities concerning the environment. It is the umbrella organisation for relevant government ministries, departments and agencies, including Uganda Wildlife Authority (UWA).

NEMA is sanctioned to issue guidelines for land use methods that are intended for the conservation of biological diversity. Currently, NEMA plays a marginal role as a CITES Scientific Authority. The nature and extent of its involvement in CITES implementation and enforcement is not entirely clear. But there are documented instances where it has been consulted on issues involving research and trade in wildlife species or their products.

6.8 Uganda National Council for Science and Technology (UNCST)

The National Council for Science and Technology currently plays an important and complementary role in CITES implementation. Many of the instances in which wildlife specimens or their products are imported or exported involve pharmaceutical or other kinds of research. UNCST is responsible for providing approval for such research and is, therefore, an integral part of the CITES import, re-export or export permit process. It is only after a research proposal has been approved by UNCST that a CITES permit can be issued by the Management Authority.

6.9 Phytosanitary and Quarantine Inspection Services

The mission of the Phytosanitary and Quarantine Inspection Service (PQIS) under the Ministry of Agriculture, Animal Industry and Fisheries is to protect the health of Uganda's agricultural resources from economically harmful diseases and pests through enforcement of regulatory provisions. Among the numerous services performed by PQIS is the enforcement of CITES provisions for plants (PQIS, 1999).

PQIS entry/exit point inspectors are responsible for enforcing the plant import provisions of CITES and carrying out inspections of plants and plant products presented for exportation. However, the extent to which PQIS enforces the provisions for the importation of CITES-listed plant species, is extremely limited by virtue of its mandate, which is restricted to disease and pest control. PQIS however, advises individuals and groups wishing to export CITES-listed flora species from Uganda to obtain CITES export permits from the Management Authority.

6.10 Customs Department

The Customs Department currently plays a major role in the enforcement of CITES at entry/exit points. The Department works in conjunction with the Management Authority and UWA, and inspects all animal wildlife specimens and products being imported and exported. In cases of illegal wildlife trade, the Department often provides the first and only opportunity for the enforcement of CITES provisions. The Department has, in this regard, made several seizures of CITES-listed species at entry/exit points since CITES ratification, particularly at Entebbe International Airport (**Table 8**).

6.11 Uganda Wildlife Education Centre (UWEC)

The Uganda Wildlife Education Centre (UWEC) is one of the institutions established as a result of the restructuring of the wildlife sector. Its major responsibility is to educate the public on wildlife issues nationwide. UWEC plays a marginal role in the enforcement of CITES as a wildlife rescue centre. Once Customs or Uganda Police officials have seized wild animals, they are transferred to UWEC for safekeeping. If possible, they are later reintroduced into their native habitat.

6.12 Uganda Police

Uganda Police is one of the principal agencies involved in the enforcement of CITES. Police officers stationed at entry/exit points collaborate closely with Customs Department and PQIS inspectors to apprehend and prosecute individuals involved in illegal wildlife trade. Most prosecutions immediately after Uganda's ratification of CITES were carried out in accordance with the repealed Game (Preservation and Control) Act and are now carried out in accordance with the Wildlife Statute.

6.13 Coordination between Institutions for CITES Implementation

Significant institutional additions and changes have occurred in the wildlife sector subsequent to Uganda's ratification of CITES. Many of these additions and changes may be considered successes, because they have the potential to effectively facilitate the implementation and enforcement of CITES provisions. One such success has been the designation of the Commissioner for Wildlife as the Management Authority in 1999, which has given impetus to the CITES-related institutional framework. With the required facilitation, the Management Authority will be in position to perform its role as a focal point for CITES implementation and enforcement.

Another success has been the wildlife sector restructuring process that led to the creation of UWA, UWEC, the Wildlife Training Centre and the Wildlife Department. This has increased opportunities for integrated implementation and enforcement of CITES. These new institutions, particularly UWA and the Wildlife Department, could work closely and effectively with other existing institutions such as the Forest and Customs Departments to implement and enforce CITES. The restructuring process also created specialised institutions that could adopt specific responsibilities under CITES. For example, UWEC and the Wildlife Training Centre could serve the purpose of building capacity and awareness in CITES.

A third success has been the creation of additional institutions such as the National Council for Science and Technology (UNCST) and the National Environment Management Authority (NEMA). These additions to the institutional framework present an opportunity for comprehensive institutional participation and support in CITES implementation and enforcement.

However, in spite of the existence of several institutions capable of playing an effective role in CITES implementation and enforcement, coordination between these institutions leaves a lot to be desired. Coordination of roles for CITES implementation amongst various institutions appears to be solely

based on individual relationships as opposed to institutional relationships. For example, the current CITES Management Authority essentially consists of a single individual, the Assistant Commissioner of Wildlife. The Scientific Authority for plants in the Forest Department also currently consists of a single individual trained in CITES implementation. The nature of coordination between the Management Authority and the Scientific Authority for plants, therefore, depends on two individuals. In the event that one of these individuals is not available for consultation, the implementation of CITES provisions will be seriously hampered.

Another impediment to CITES implementation is the lack of knowledge of CITES or its provisions by key individuals in government institutions. For example, PQIS inspectors located at entry/exit points are charged with the responsibility of enforcing CITES provisions for plants. However, interviews held with PQIS inspectors reveal ignorance of the existence of CITES, let alone its provisions or the existence of a list of Ugandan plant species on the appendices of CITES (**Annex II**) provided by the Forest Department. Interviews held with Customs Department inspectors, who are the officials at the frontline of CITES enforcement, reveal similar ignorance.

CITES implementation and enforcement by the Management Authority, the Scientific Authorities, PQIS and the Customs Department, therefore, appears to be based on individual relationships between high and mid-level officials. The adoption of such a system to coordinate CITES implementation and enforcement between institutions presupposes the existence of intra-institutional mechanisms that allow the trickle-down of information to lower-level officials who are on the frontline. However, this is evidently not the case.

SECTION SEVEN

Conclusion

Current wildlife trade practices and their legal and institutional frameworks in Uganda, have largely been shaped by events and decisions made during the last Century. Although wildlife trade and utilisation in Uganda had existed for centuries, principally for subsistence but also for commercial purposes, the advent of European exploration and colonialism in Africa resulted in a radical change in the management and exploitation of wildlife and other natural resources.

Extractive utilisation of wildlife by government during the Protectorate era, and especially after independence, led to large declines in wildlife populations in Uganda (**Table 11**). This was also exacerbated by Uganda's turbulent post-independence history of the 1970s and 1980s, and its wholesale adoption of sectoral laws from the Protectorate era, which did not allow for effective coordination and management of the wildlife sector.

Table 11: Population Trends of Selected Wild Mammals in Uganda (1960-1998)

| Species | 1960s | 1982/1983 | 1995 – 98 | Current Status |
|---------------------|--------|-----------|-----------|-----------------------|
| Elephant | 30,000 | 2,000 | 1,900 | Population stable |
| Black rhino | 400 | 150? | 0 | Extinct |
| White rhino | 300 | 20? | 0 | Extinct |
| Burchell's zebra | 10,000 | 5,500 | 3,200 | Population declining |
| Hippopotamus | 26,000 | 13,000 | 4,500 | Population declining |
| Rothchild's giraffe | 2,500 | 350 | 200 | Population stable |
| Buffalo | 60,000 | 25,000 | 18,000 | Population declining |
| Hartebeest | 25,000 | 18,000 | 2,600 | Population declining |
| Topi | 15,000 | 6,000 | 600 | Population declining |
| Impala | 12,000 | 12,000 | 2,000 | Population declining |
| Waterbuck | 10,000 | 8,000 | 3,500 | Population stable |
| Uganda kob | 70,000 | 40,000 | 30,000 | Population stable |
| Bright's gazelle | 1,800 | 1,400 | 100 | Very rare, precarious |
| Roan | 700 | 300 | 8 | Very rare, precarious |
| Oryx | 2,000 | 200 | 0 | Extinct |
| Eland | 4,500 | 1,500 | 500 | Population declining |
| Derby's eland | 300 | ? | 0 | Extinct |

Source: Uganda Wildlife Policy, 1999

After CITES ratification in 1991, these wildlife sectoral policies and laws proved to be archaic and ineffective in CITES implementation. It was not until the legal and institutional restructuring of environmental laws during the 1990s that international environment agreements were given some consideration. Although existing laws do not fully address Uganda's obligations to CITES, draft CITES Regulations have been prepared that will cater for these obligations.

The wildlife restructuring process that led to the dissolution of some institutions and the creation of others during the 1990s, has made progress in attempts to meet Uganda's obligations under CITES. However, the effectiveness of these institutions continues to be hampered by poor coordination and facilitation by government, and the lack of regulations to guide it.

It can therefore be concluded that, while existing wildlife legislation and institutions have to some extent regulated trade in CITES species, there is a need for the enactment of specific legislation that will incorporate CITES provisions and guide institutional implementation of CITES.

SECTION EIGHT

Recommendations

8.1 Legal and Policy Issues

- ❑ Uganda ratified CITES in 1991, and since then, domestic legislation to implement the Convention has not been put into place. The prosecution of offences in respect to CITES-listed species is made under the general provisions of the Wildlife Statute. For the effective implementation of this Convention therefore, there is need to have legislation that incorporates the provisions of the Convention. While the Draft Wildlife (Endangered Species Convention) Regulations of 1999 are still under discussion and consideration, there is need for Government to hasten the process and transform them into law.
- ❑ As mentioned earlier, Uganda continues to use some of the archaic pieces of wildlife legislation handed down by the Protectorate administration. Pre-independence forestry, fisheries and plant protection legislation was based on extraction for commercial purposes through the issue of licences, and management of these resources was a purely government responsibility. Therefore, the Forestry, Fisheries and Plant Protection Acts need amendment to reflect new and improved natural resource management methods, and to cater for trade controls under CITES. The Forestry Nature Conservation Master Plan is an attempt to restructure the management of the forestry sector; but the new Forest Policy and Bill currently in their advanced stages, need to address Uganda's obligations to CITES. The Fisheries Department is also developing a policy to adopt the changes in the sector, which should also address Uganda's commitment to CITES.
- ❑ While the Wildlife Statute sets out lenient and stringent penalties, their appropriate use during court sentencing leaves a lot to be desired. The sentences are usually not a deterrent to future illegal activities. Often, a minimal fine is handed down to an accused individual, who was found in possession of a CITES-listed species or product. One possible explanation of such low fines could be the lack of adequate knowledge on the value or need to conserve wildlife by the various law enforcement institutions. There is need, therefore, to educate the Judiciary on the importance of CITES, and to strengthen its capacity by having experts who can provide information on the market value of a seized species or product, and advise the court before a sentence or fine is imposed. As a possible deterrent, illegal wildlife trade could be designated as an economic crime under *Section 76* of the Wildlife Statute.
- ❑ Failure to educate the public about wildlife regulations contributes largely to the ignorance of the public on wildlife and conservation. UWEC has the mandate to plan and implement programmes in wildlife education in Uganda. Although UWEC has embarked on such training through schools, there is also need for the Management Authority to engage in training on the basics of CITES and its practical implementation in Uganda. The distribution of pamphlets, educational materials and posters at the various entry/exit points would provide valuable information to the public. This would encourage public participation in the implementation and enforcement of CITES provisions.
- ❑ The Wildlife Statute maintained the Schedules of the repealed Game (Preservation and Control) Act, which include lists of animals, which persons are authorised to hunt or capture under special permits, game hunting areas, list of birds which may be hunted by a holder of a bird licence, and boundaries of game reserves. The purpose of a number of these Schedules was to regulate hunting and collection of revenue through licences. However, following the ban on hunting and the low numbers of animals in controlled hunting areas, the Schedules have outlived their purpose. The findings of the Protected Area Assessment Programme, which consisted of a study that evaluated all protected areas, recommended degazettement of some protected areas, which are either devoid of game or currently under heavy human encroachment. There is, therefore, need to amend the Schedules to reflect the current status of wildlife in Uganda.

In the interim, while the process of effecting amendments of the Schedules is not yet in place, it is proposed that trade in any scheduled species be governed by provisions comparable to those applicable to species listed under the appendices of CITES. This would provide

consistency between national CITES legislation and the CITES treaty as demonstrated by the European Commission and American wildlife trade regulations.

- ❑ As a method to ensure the sustainable implementation of CITES provisions, a policy emphasising wildlife use rights should be introduced, that focuses on game ranching and community wildlife projects under *Sections 30(1)(c)* and *32(1)* of the Wildlife Statute. Game ranching in South Africa and Zimbabwe has proven to be an effective means through which to increase wildlife populations, thereby making it possible for the down-listing of species listed in CITES appendices. Community wildlife projects such as those operated by the Masai Mara Koiyaki Lemek Wildlife Trust in Kenya and the CAMPFIRE Programme in Zimbabwe have opened land outside protected areas for wildlife to roam, resulting in an increase in wildlife populations. An increase in wildlife populations under both methods would further the wildlife conservation aims of CITES. In view of the low populations of some Ugandan wildlife species, game ranching would be an appropriate means of increasing these populations. For example, intensive conservation management programmes which include anti-poaching patrol and intelligence activities, population monitoring, translocation and maintaining genetic diversity at the Hluhluwe-Umfolozi Park in South Africa, helped increase the rare white rhino population from 20 in 1890, to the current population of about 7,000. This model (Operation Rhino) could provide a means by which to increase specific wildlife populations in Uganda.
- ❑ The Wildlife Statute contains several sections that would assist in promoting sustainable use of resources. There is an urgent need to put in place guidelines for wildlife use rights that will help streamline the uses of wildlife and establish sustainable utilisation projects.
- ❑ Successful anti-poaching legislation and policies such as those currently in operation in South Africa, may be considered, so as to curtail illegal trade in CITES-listed species. The 8-Step Counter Poaching Model of the South African National Parks includes pro-active and reactive crime prevention strategies to combat poaching, and may offer a strategy that can be modified to address poaching in Uganda (**Annex III**).
- ❑ The implementation and enforcement of CITES in Uganda, requires a specialised unit. The Management Authority can make use of existing systems to build capacity for the control of trade through CITES. Under *Regulation 4(2)* of the Draft Wildlife (Endangered Species Convention) Regulations, the Minister can appoint four specialists from the fields of ecology, mammology, herpetology or entomology, onthology, and five ex-officio members from NEMA, UWA, Forestry, Fisheries and the Wildlife Unit, to serve as the Scientific Authority. However, this arrangement would be inadequate as it omits botanists amongst the specialists, and relegates lead agencies to ex-officio status.

There is also need to include persons in this unit who will be responsible for CITES enforcement such as PQIS and Customs inspectors. Uganda may, therefore, wish to adopt *Sections 2* and *11* of the Zimbabwe Control of Goods (Import and Export)(Wildlife) Regulations, *Statutory Instrument 557/82*, which provide for inspectors appointed by the Minister to execute the regulations. The inspectors include officers of the Customs and Excise Department, officers of the Department of National Parks and Wildlife Management, or any other officer so appointed. These trained inspectors would be responsible for seizures, examination of wildlife species and their products, and proper documentation, and would assist in the effective enforcement of CITES in Uganda.

- ❑ Wildlife legislation and policies adopted prior to the 1990s had a sectoral approach to the management of wildlife. These laws and policies were exclusive and catered for a particular resource. Attempts to collectively manage natural resources previously under separate management met with opposition. An example is the gazettelement of forest national parks, which shifted their management from the Forest Department to UNP. It is recommended that national legislation and policies on a particular natural resource be made in consideration of the overall national policy for natural resources in order to avoid possible future confrontations. One way to achieve this would be to place all renewable natural resource management under one ministry. This would facilitate CITES implementation and enforcement. Therefore, legislation and policies currently being developed for the fisheries and forest sectors should adopt such an approach.
- ❑ Since wildlife is a shared resource and transcends national boundaries, no country can work exclusively on its own to combat illegal wildlife trade and carry out CITES implementation and enforcement. It is, therefore, recommended that the member states of the East African

Community cooperate and harmonise legislation and policies that adopt a level playing field with regards to the implementation and enforcement of CITES provisions. Such cooperation would serve as a deterrent to illegal wildlife trade in the region. Additionally, the Task Force put in place by the Lusaka Agreement to cooperate on illegal trade in wild fauna and flora should embark on its role.

8.2 Institutional Issues

- ❑ Institutions designated as CITES Management and Scientific Authorities should consist of more than a single individual each so that coordination of their activities is between institutions as opposed to individuals. That way, the absence of individuals that currently make up Management or Scientific Authorities will not preclude CITES implementation and enforcement. At the moment, if the sole individual that constitutes the CITES Management Authority were to leave the country, implementation and enforcement of crucial CITES provisions would be hampered. Therefore, designation of the Wildlife Department rather than the Commissioner of Wildlife as the Management Authority may be more appropriate. For the sake of organisation and continuity in the operations of the Management Authority, there should be one signatory to CITES permits at any given time.
- ❑ Establishment of an inter-institutional CITES Committee would provide a holistic approach to the implementation and enforcement of CITES. The Committee need only consist of one or two individuals from each of the institutions responsible for implementation and enforcement of CITES, and would meet on a regular basis to exchange information and ideas. Implementation of *Regulation 4(2)* of the Draft Wildlife (Endangered Species Convention) Regulations would go a long way towards achieving this recommendation.
- ❑ Communication within institutions responsible for the implementation and enforcement of CITES should be improved. Once CITES implementation and enforcement within institutions becomes the responsibility of a group of individuals as advised above, this group should consult regularly during the decision-making process to share knowledge and opinions. That way, information and knowledge gathered by higher level officials within an institution would be shared with lower level officials, and vice versa.
- ❑ Relevant personnel within institutions currently charged with the responsibility of implementing and enforcing CITES provisions need to be made aware of CITES and its provisions, and undergo CITES training necessary for the efficient execution of their responsibilities. This is important particularly for entry/exit point inspectors who are often the first and only safeguard against illegal trade in CITES-listed species and their products. PQIS is in the process of setting up species identification units at entry/exit points, to conduct on-site tests on seized flora. The CITES Management Authority may wish to develop similar infrastructure to address fauna species and product identification at entry/exit points.
- ❑ Access to information on wildlife trade in Uganda can be extremely challenging for researchers and the public in general. In the past, the GD published annual reports on its activities and on the status of wildlife. These annual reports were available with intermittent regularity between 1925 and 1981. Thereafter, GD annual reports are apparently non-existent. Therefore, there is a need for all institutions responsible for wildlife management to publish annual reports that can be accessed by the public for information on wildlife trade in Uganda.
- ❑ CITES Management and Scientific Authorities need to improve transparency so as to foster public confidence in the management of wildlife, and the implementation and enforcement of CITES. The public should be allowed access to information and records on various stages of the CITES implementation and enforcement process: from the early stages of permit application to the annual CITES reports and communication between the Management Authority and the CITES Secretariat. This could be achieved by making a provision in the draft CITES regulations for all records of wildlife trade transactions, both within and outside the realm of CITES, to be catalogued under NEMA and made accessible to the public.
- ❑ Government departments currently responsible for the implementation and enforcement of CITES provisions, but whose primary or intended function does not allow for the efficient execution of their CITES responsibilities, should be legally incorporated into the CITES institutional structure. For example, under an administrative arrangement, the CITES Management Authority and

Scientific Authority for plants currently rely on the PQIS and the Customs and Police Departments to enforce CITES at entry/exit points. Therefore, officials from these institutions should be legally incorporated into the proposed Scientific Authority under *Regulation 4(2)* of the Draft CITES Regulations. This would strengthen the capacity of the proposed Scientific Authority to carry out its functions under *Regulations 6(1)(a), 6(1)(c) and 6(2)(e)* of the Draft CITES Regulations (**Annex I**).

- ❑ Alternatively, the PQIS and the Customs and Police Departments could consider establishing an Endangered Species Protection Unit (ESPU), similar to the one currently in operation in the Republic of South Africa. ESPU officials would receive CITES training in order to be proficient in CITES enforcement. An ESPU official would then represent the Unit on the proposed Scientific Authority, under the Draft CITES Regulations. The ESPU would also be efficient in that it would allow for the combination of resources of the three departments.
- ❑ Concern has been expressed from some quarters within and outside government about the current management of UWA, particularly regarding the sagacity of hiring expatriates to run public institutions that are emerging from a restructuring process. Proponents of the idea suggest that new blood and ideas need to be infused into these institutions so that they depart from previous shortcomings and set new directions. Opponents of the idea, however, believe that expatriates heading recently restructured public institutions such as UWA may not have a clear understanding of the background that led to the restructuring process and may, therefore, be at a disadvantage when charting a new direction for these institutions. One way to address this issue in a way that accommodates the merits of both arguments would be to hire an expatriate that is familiar with the conditions under which the public institution operates and with the restructuring process it has undergone. Another way would be to hire a qualified individual familiar with the institution's previous shortcomings and that possibly played an integral role in the restructuring process.
- ❑ The current salary structure of the top executives of UWA draws attention to a disparity that might undermine efforts to raise morale and commitment within the management of the wildlife sector. This is highlighted by the 20-fold disparity between the estimated monthly salary of the current expatriate Executive Director (US\$ 27 million⁴²) and that of his Ugandan deputy (US\$ 1.3 million). It is important that this disparity is reduced or that regular performance evaluations are conducted to assess it.
- ❑ As part of its public education responsibilities, UWEC should expand its role in CITES implementation as a wildlife rescue centre by embarking on education programmes that inform the public on CITES and wildlife trade rules and regulations in Uganda. Since UWEC derives its authority from government, government representation on its Board of Directors may help to ensure that wildlife education programmes of national interest such as this are carried out.

⁴² Estimated monthly salary of US\$15,000 at the current rate of US\$1= US\$1,800

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Annex I

The Draft Wildlife (Endangered Species Convention) Regulations of 1999

(Under sections 68 (1) and 91 of the Uganda Wildlife Statute, 1996)

Statute No. 16 of 1996

IN EXERCISE of the powers conferred on the Minister responsible for Wildlife by subsection (1) of section 68 of the Uganda Wildlife Statute, 1996 and after consulting the Minister responsible for trade, these regulations are made this day of 1999.

PART 1 - PRELIMINARY

Citation:

1. These Regulations may be cited as the Wildlife (Control of Trade in Endangered Species of Wild Fauna and Flora) Regulations 1999.

Interpretation

2. (1) Unless otherwise provided, the words and phrases used in these Regulations shall be read as one with the interpretation contained in section 2 of the Uganda Wildlife Statute, 1996.
(2) For the avoidance of any doubt, where an interpretation in these Regulations conflicts with that in the Statute, the interpretation in Statute shall, prevail.
(3) Subject to subregulations (1) and (2), in these regulations, unless otherwise provided:

”Convention”: means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

”Country of origin”: means the country in which a specimen was taken from the wild; captive bred or artificially propagated.

”Competent authority”: includes an officer so designated or authorised to act for the purpose of these Regulations under the Fish Act, Forests Act or a lead agency as defined under the Uganda Wildlife Statute;

”issuance”: means the completion of all procedures involved in preparing and validating a permit or certificate and its delivery to the applicant;

”management authority” means a national administrative authority designated in accordance with article 13 (1) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora hereinafter referred to as CITES;

”National Bureaux” means a governmental entity with the competence encompassing law enforcement, designated or established by a Party to the Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora;

”offering for sale” or ”offered for sale” or ”offers for sale” means offering for sale and any action which may reasonably be constructed as such including advertising or causing to be advertised for sale and invitation to treat;

”personal or house hold effects” means dead specimen, parts derivatives thereof, that are the belongings of a private individual and that form or are intended to form part of his/her normal goods and chattels;

”place of destination” means the place at which a specimen will normally be kept after it is introduced into the country, in case of live specimens it shall be the place where the specimen is intended to be kept after any period of quarantine;

”population” means a biologically or geographically distinct total number of individuals;

”primarily commercial purposes” means all purposes the non- commercial aspects of which do not clearly predominate;

”re-export” means export from Uganda of any specimen that has previously been imported or introduced;

”re-introduced into Uganda” means introduction into Uganda of any specimen that has previously been exported and re-exported.

”sale” means any form of sale. For the purpose of this Regulation, hire, barter or exchange shall be regarded as sale, cognate expressions shall be similarly construed.

”Scientific authority” means a scientific authority designated in accordance with article 13 (1) (b) of the CITES;

”species” means a species, subspecies or population thereof;

”specimen” means any animal or plant whether alive or dead of the species listed in the First Schedule and Third Schedules, any part or derivatives thereof whether or not contained in other goods. A specimen shall be considered to be a specimen of a species listed in First, Second and Third Schedules if it is or is part of or derived from an animal or plant at least one of whose ”parents” is of a species so listed. However, in the case of hybrid plants if one of the ”parents” is of a species listed in the 1st Schedule the provisions of the more restrictive first schedule shall apply only if the species is annotated to the effect in the schedule.

”trade” means the introduction into Uganda including the introduction from the sea and the export and re-export therefrom, as well as the use, movement and transfer of possession within Uganda of specimen subject to the provisions of this Regulation.

Purpose of Regulation

3. (1) The purpose of these Regulations is to:
 - (a) implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
 - (b) make provision for regulation of domestic trade in all wildlife species and species listed in appendices of CITES;
 - (c) generally give legal effect to CITES, the Uganda Wildlife Statute 1996, the Forests Act and the Fish Act.

Statute No. 16 of 1996;
Cap 246 and Cap 228

- (2) In the fulfilment of the purposes under sub regulation (1) of these Regulations,
 - (a) the First Schedule in Column 1, 2 and 3 adopts plants and animal species as listed in Appendices I, II and III, respectively, as amended by the Conference of the Parties and Notification to Parties;
 - (b) the Second Schedule lists species of plants and animals which are nationally endangered but which may or may not have been listed on CITES appendices and prohibits national and international trade in the specimen of the species;
 - (c) the Third Schedule lists species in which both national and international trade may be authorised under certain conditions.

PART II

Institutional Arrangement for the Enforcement of CITES

4. (1) In accordance with Article IX (a) of the CITES the Minister has designated the Commissioner for Wildlife as the Management Authority.
- (2) In accordance with Article IX (b) of the CITES the Minister shall appoint four specialists from the fields of ecology, mammology, herpetology or entomology, onthology, and five ex-officio members drawn on merit from NEMA, UWA, Forestry, Fisheries and Wildlife Unit to serve as the Scientific Authority for the purposes of the Convention.
- (3) The names of the specialist appointed under subregulation (2) of this Regulation shall be published by Notice in the Gazette.
- (4) The Management Authority and the Scientific Authority appointed under subregulations (1) and (2) of this Regulation shall, in the performance of their respective functions, consult the relevant competent authority or lead agency.

The Functions of the Management Authority

5. (1) The functions of the Management Authority appointed under sub-regulation (1) of Regulation 4 shall include:
 - (a) the issuance of CITES export, re-export, import permits or certificates;
 - (b) convening meetings of the Scientific Authority;
 - (c) preparation of CITES annual reports;
 - (d) communication, with CITES Secretariat, Parties to the Convention or any other lead agency or person performing similar or related functions.
- (2) In the fulfilment of the above functions, the Management Authority shall –
 - (a) in the case of the export of any specimen of a species included in Column 1 of the First Schedule, state whether or not it is satisfied that:
 - (i) the specimen was not obtained in contravention of the laws of Uganda for the protection of fauna and flora in accordance with Article III (2) (b) of the CITES;
 - (ii) the living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment in accordance with Article III (2) (c) of the CITES;
 - (iii) an import permit has been granted for the specimen in accordance with Article III (2) (c) of the CITES;

- (b) in the case of the import of any specimen of a species included in Column 1 of the First Schedule, state whether or not it is satisfied, as the Management Authority of the State of re-export, that the specimen is not to be used for primarily commercial purposes contrary to Article III (3) (c) of the CITES;
 - (c) in the case of a re-export certificate, it, as the Management Authority of the State of re-export,
 - (i) state, whether or not it is satisfied that the specimen was imported into Uganda in accordance with the provisions of the present Convention as provided for under Article III (4) (a) of the CITES;
 - (ii) state that it is satisfied that any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment as provided for under Article III (4) (b) of the CITES;
 - (iii) state that it is satisfied that an import permit has been granted for any living specimen as provided for under Article III (4) (c) of the CITES;
 - (iv) state that the competent authority of the state of export has issued a valid certificate of health or quarantine certificate;
 - (d) in the case of the introduction from the sea of any specimen of a species included in Column 1 of the First Schedule state that it is satisfied that:
 - (i) the proposed recipient of a living specimen is suitably equipped to house and care for it as provided for under Article III (5) (b) of the CITES;
 - (ii) the specimen is not to be used for primarily commercial purposes as provided under Article III (5) (c) of the CITES;
- (3) (a) in the case of the export of any specimens of species included in Column 2 of the First Schedule, state whether or not as the Management Authority of the State of export, it is satisfied that:
- (i) the specimen was not obtained in contravention of the laws of Uganda for the protection of fauna and flora as provided for under Article IV 2(b) of the CITES;
 - (ii) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment Article IV (2) (c) of the CITES;
- (b) in the case of the re-export of any specimen of a species included in Column 2 of the First Schedule, state whether or not, as the Management Authority of the State of re-export, it is satisfied that:
- (i) the specimen was imported into Uganda in accordance with the present Convention;
 - (ii) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment as provided for under Article IV (5) (b) of the CITES;
- (c) in the case of the introduction from the sea of any specimen of a species included in Column 2 of the First Schedule, it shall, as the Management Authority of the State of introduction state whether or not it is satisfied that any living specimen will be handled as to minimise the risk of injury, damage to health or cruel treatment as provided for under Article IV (6) (b) of the CITES.

- (4) (a) in the case of the export of any specimen of a species included in Column 3 of the First Schedule from any State which has included that species in Appendix III, it has, as the state of export, state whether or not it is satisfied that;
 - (i) the specimen was not obtained in contravention of the laws of Uganda for the protection of fauna and flora as provided for under Article V (2) (a) of the CITES;
 - (ii) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment as provided for under Article V (2) (b) of the CITES.
 - (b) in the case of re-export of any specimen of species included in Column 3 of the First Schedule, it, as the Management Authority of the State of re-export, grant a certificate that the specimen was processed in Uganda or is being re-exported from Uganda.
 - (c) to grant, cancel or perform such other functions with respect to permits and certificates as specified in regulation 7;
 - (d) to grant any valid exemption as specified in the Convention (Article VII);
 - (e) to initiate and establish direct communication between itself and any other Management Authority of State Party to the Convention.
- (5) In the exercise of its functions under these Regulations, the Management Authority shall not grant an import or export permit unless the Scientific Authority has advised that it is satisfied that the import or export will not be detrimental or contribute to trade which is detrimental to the survival of any species and subspecies.

Functions of the Scientific Authority

6. (1) The functions of the Scientific Authority shall include -
- (a) to advise the Management Authority or competent authority on matters relating to the issuance of CITES export, re-export or import permits or certificate;
 - (b) to recommend species that may be traded in or offered for sale nationally or internationally;
 - (c) in consultation with the competent authority, to monitor population of wild fauna and flora in trade or offering for sale.
- (2) In the performance of the above functions the Scientific Authority shall
- (a) in accordance with Article III (2), III (5), IV (2) and IV (6) of the CITES, advise the Management Authority and the competent authority on whether or not a proposed export or introduction from the sea of any specimen in Column 1 or 2 of the First Schedule will be detrimental to the survival of the species involved;
 - (b) in the case of a proposed import of specimen in Column 1 or 2 of the First Schedule, advise the Management Authority and the competent authority in accordance with the provisions of Article III (3) of the CITES on whether or not the purpose of the import is not detrimental to the survival of the species involved;

- (c) in the case of a proposed import of a live specimen in Column 1 or 2 of the First Schedule, state whether or not it is satisfied that the proposed recipient of the specimen is suitably equipped to house and care for it in accordance Article III (3) of the CITES;
- (d) in the case of a proposed introduction from the sea of specimen in Column 1 of the First Schedule, advise the Management Authority and the competent authority on whether or not the introduction will be detrimental to the survival of the species involved;
- (e) monitor the export permits granted for specimens in Column 2 of the First Schedule as well as the actual exports of such specimens, and advise the Management Authority and the competent authority of suitable measures to be taken to limit the grant of export permits when it has determined that this is necessary to maintain that species throughout its range are at a level consistent with its role in the ecosystems, and well above the level at which that species might become eligible for inclusion in Column 1 of the First Schedule as required by the provisions of Article IV (3) of the CITES;
- (f) advise the Management Authority and the competent authority on the choice of a rescue centre or other place for the disposal of confiscated specimens as required by the provisions of Article VIII (4) of the CITES;

PART III - PERMITS, CONDITIONS AND ISSUANCE CERTIFICATE OR LICENCES

Prohibitions on Trade or Offering for Sale.

7. (1) Subject to subregulation (4) of regulation 5, no person shall possess, trade in or offer for sale any specimen of species included in the Schedule these Regulations unless he or she has a valid permit, certificate or licence issued by the Management Authority or the relevant competent authority as the case may be.

Statute No. 16 of 1996;
Cap. 228 and Cap. 246.

- (2) Without prejudice to sub-regulation (1) of this regulation; the provisions of the Wildlife Statute; Fish Act; Forests Act or these Regulations, no person shall –
- (a) import into Ugandan any specimen of species or its derivatives included in the First Schedule of these Regulations;
 - (b) import directly into Uganda any specimen of species listed in columns I or II of the First Schedule taken from the sea beyond the jurisdiction of any country;
 - (c) export from Uganda any specimen of species listed in the First Schedule;
 - (d) re-export from Uganda any specimen of species listed in the 'First Schedule;
 - (e) possess any wildlife or plant listed in the First Schedule which specimen of species is imported into Uganda, or exported or re-exported from Uganda contrary to the Convention, or any Forestry or Fisheries or Wildlife Legislation, or these regulations;
 - (f) engage in domestic trade in any specimen of species listed in the Second and Third Schedules;
 - (g) possess any specimen of species listed in the First, Second and Third Schedules;
 - (h) generally engage in any activity that is in contravention of the Convention.

Statute No. 16 of 1996

- (3) A person who contravenes sub-regulation (1) of this regulation commits an offence and is liable, on conviction to the penalty prescribed in section 77 of the Statute.

Restrictions and Exceptions

8. For avoidance of any doubt;
 - (1) the prohibitions in regulations 7(1); (2) (a) (h), shall apply even if lawful possession or domestic trade or offer for sale is authorised under regulation 10.
 - (2) the prohibitions in paragraphs (a), (b), (c) and (d) of subregulation (2) of regulation 7, on importation, exportation and re-exportation shall not apply:
 - (a) to wildlife or plant listed in the First Schedule that are being transhipped through Uganda provided such wildlife or plants remain in Customs Custody.
 - (b) to wildlife or plants when a valid certificate has been issued by the management authority of the country of origin or the country of re-export to the effect that the wildlife or plant was acquired prior to the date the Convention applied to it.
 - (c) subject to sub-regulation (3), to wildlife or plants that are accompanying personal baggage or part of a shipment of the household effects of a person moving their residences to or from Uganda;
 - (d) to wildlife or plants listed in Column 1 of the First Schedule that have been bred in captivity or artificially propagated, for commercial activities, and which shall be treated as if listed in Column 2 of the First Schedule;
 - (e) to wildlife or plants when a valid certificate has been issued by the management authority of the country of export to the effect that the wildlife or plant was bred in captivity or artificially propagated, or was part of or derived from a wildlife or plant bred in captivity or artificially propagated;
 - (f) to herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material when they are imported, exported or re-exported as a non-commercial loan, donation or ex-change between scientists or scientific institutions that have been registered by a management authority of their country, and when a valid label issued or approved by such management authority is clearly affixed to the package or container.
- (2) The exemptions under of subparagraph (c) of subregulation (2) of this regulation shall not apply to:
 - (i) importation by Ugandan residents of wildlife or plants listed in Column 1 of the First Schedule that were acquired outside Uganda.
 - (ii) importation by Ugandan residents of wildlife or plants listed in Column 2 of the First Schedule that were taken from the wild in a foreign country, if that country requires export permits.

Import of Species in the First Schedule

9. Without prejudice to the general effect of regulation 7, a person may, under these Regulations-
 - (a) import into Uganda any specimen of species listed in Column 1 of the First Schedule from any other country if he or she has -
 - (i) obtained, prior to the importation, a valid foreign export permit issued by the country of origin or a valid foreign re-export certificate issued by the

- country of re-export in accordance with paragraphs (a), (b) and (c) of subregulation (1) of regulation 5;
 - (ii) subject to paragraph (i) a valid Uganda import permit issued under these Regulations;
 - (iii) the import permit issued under paragraph (a) (i) shall be in the format specified in the Sixth Schedule.
- (b) not import directly into Uganda any Specimen of species listed in Column 1 of the First Schedule which wildlife or plant was taken from the sea beyond the jurisdiction of any country unless he or she has obtained prior to such importation a valid import permit issued under subregulation (1) of regulation 7.
- (c) not import into Uganda any specimen of species listed in Column 2 of the First Schedule from any foreign country unless he or she has obtained, prior to such importation:
- (i) a valid foreign export permit issued by the country of origin; or
 - (ii) a valid foreign re-export certificate issued by the country of re-export.
 - (iii) a valid Ugandan import authority.
- (d) not import directly into Uganda any wildlife or plant listed in Column 2 of the First Schedule taken from the sea beyond the jurisdiction of any country unless he or she has obtained, prior to such importation, a valid import permit from Uganda issued under regulation 7.
- (e) not import into Uganda any wildlife or plant listed in Column 3 of the First Schedule from a foreign country that has listed such animal or plant in Appendix III unless he or she has obtained, prior to such importation, a valid foreign export permit or re-export certificate issued by such country and a valid import permit from Uganda Management Authority;
- (f) not import into Uganda any wildlife or plant listed in Column 3 of the First Schedule from a foreign country that has not listed such wildlife or plant in Appendix III unless he or she has obtained, prior to such importation, a valid import authority from the Management Authority.

Export or Re-export of Species in the First Schedule.

10. (1) Without prejudice to the general effect of regulation 7, a person may:
- (a) export or re-export from Uganda any wildlife or plant listed in Column 1 and 2 of the First Schedule if he has obtained, prior to such exportation or re-exportation, a valid Uganda export permit or re-export certificate issued under subregulation (2) of this regulation;
 - (b) export or re-export from Uganda any wildlife or plant listed in Column 3 of the First Schedule by Uganda if he or she has obtained, prior to such exportation or re-exportation, a valid Uganda export permit or re-export certificate issued under subregulation (2) of this regulation;
 - (c) export or re-export from Uganda any specimen of species listed in Column 3 of the First Schedule that has not been listed by Uganda if he or she has obtained, prior to such exportation or re-exportation, a valid re-export certificate of certificate of origin issued under subregulation (2);
- (2) The Management Authority may, in the exercise of its functions under regulation 7 issue an export permit, or re-export certificate or certificate of origin under this regulation.

- (3) An export permit or re-export certificate or certificate of origin referred to in these regulations shall conform to the standard CITB certificate as specified in Article VI of the Convention and be in the format in the Fourth Schedule.

Procedure for application

11. (1) A person may apply for a permit or certificate in order to import, export or re-export trade or offer for sale wildlife or plants listed in the First Schedule.
- (2) An application under sub regulation (1) of this regulation -
- (a) shall be submitted to the Executive Director, CITES Management Authority and the competent authority responsible for forestry or fisheries;
 - (b) The application shall contain general information contained in Schedule 7 to these Regulations.
 - (c) in the case of a wild animal or plant:
 - (i) the scientific and common names of the species or taxa to the rank listed in the First Schedule sought to be covered by the permit, the number of wild animals or plants, and the activity sought to be authorised (such as importing, exporting, re-exporting);
 - (ii) a statement as to whether the wildlife or plant, at the time of application, is living in the wild; is living but is not in the wild; or is dead.
 - (iii) a description of the wildlife or plant including size; sex, if known, type of good, if it is a part or derivative.
 - (d) in the case of living wildlife or plants; a description of the type, size or construction of any container the wild animal or plant will be placed during transportation; the arrangements for watering and otherwise caring for the wild animal or plant during transportation; the name or address of the person in a foreign country to whom the wild animal or plant is to be exported from Uganda or from whom the wild animal or plant is to be imported into Uganda; the country and place where the wild animal or plant was or is to be taken from the wild;
 - (e) in the case of wild animals or plants listed in column 1 of the First Schedule, to be imported into Uganda, a statement of the purposes and details of the activities for which the wild animal or plant is to be imported; a brief resume of the technical expertise of the applicant or other persons who will care for the wild animal or plant; the name, address and a description, including diagrams or photographs, of the facility where the wild animal or plant will be maintained; a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities.
- (3) In all the cases under subregulation (2), copies of documents, sworn affidavits or other evidence showing that either that the wild animal or plant was acquired prior to the date the Convention applied to it; bred in captivity or artificially propagated; or was part of or derived therefrom; or that the wild animal or plant is an herbarium specimen, either preserved, dried or embedded museum specimen, or live plant material to be imported, exported or re-exported as a

non- commercial loan, donation or exchange between scientists or scientific institutions.

Issue of Permit or Certificate

12. (1) The Management Authority may, on receiving an application under regulation 11, decide whether to grant or reject to grant a permit or certificate.
- (2) In making a decision under subregulation (1) of this regulation, the Management Authority shall consider the following factors -
- (a) whether the proposed import, export or re-export would be detrimental to the survival of the species;
 - (b) whether the wild animal or plant was acquired lawfully;
 - (c) whether any living wild animal or plant to be exported or re- exported will be prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment;
 - (d) whether any living wild animal or plant to be imported directly into Uganda from the sea beyond the jurisdiction of any country will be so handled as to minimise the risk of injury, damage to health or cruel treatment;
 - (e) whether an import permit has been granted by a foreign country, in the case of proposed export or re-export from Uganda of any wild animal or plant listed in Column 1 of the First Schedule;
 - (f) whether the proposed recipient of any living wild animal or plant listed in column 1 of the First Schedule to be imported into Uganda is suitably equipped to house and care for such wild animal or plant;
 - (g) whether any wild animal or plant listed in Column 1 of the First Schedule to be imported into Uganda is to be used for primarily commercial activities;
 - (h) whether the evidence submitted is sufficient to justify an exception, in the case of:
 - (i) wild animals or plants that were acquired prior to the date the Convention applied to them;
 - (ii) wild animals or plants that were bred in captivity or artificially propagated, or were part of a or derived therefrom; or
 - (iii) wild animals or plants that are herbarium specimens; other preserved, dried or embedded museum specimens, or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions.
 - (i) whether in the case of wild animals or plants listed in Column 2 of the First Schedule, they are the subject of a large volume of trade and are not necessarily threatened with extinction.
 - (j) whether the applicant has been charged and convicted of an offence relating to the matter in the application or under the Statute;
 - (k) whether the applicant has failed to disclose material information required or has made false statement as to any material fact in connection with the application;

- (1) whether the applicant has failed to demonstrate a valid justification for the permit and a show of responsibility;
- (m) whether the application, if granted, potentially threatens a wildlife or plant population;
- (3) the Management Authority or the competent authority, may refuse to grant a permit or certificate if on further inquiry or investigation, it establishes that the applicant is not qualified or suitable for the grant.

Conditions of Issuance of a Permit or Certificate

13. If the Management Authority decides to grant a permit or certificate under regulation 12, the following conditions shall apply to the grant:

- (a) the permit must be presented to a customs agent or Authority's agent at a designated port of entry on importation into Uganda or prior to exportation or re-exportation from Uganda.
- (b) where appropriate or feasible, the Authority may require that an identifying mark be affixed on any wildlife or plant.
- (c) in the case of wild animals or plants that are herbarium specimens, either preserved, dried or embedded museum specimens, or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions:
 - (i) the names and address of the consignor and consignee must be on each package or container; and
 - (ii) the letters "CITES", a description such as "herbarium specimens" and the code letters assigned by the Authority to the scientist or scientific institution;

Must be entered on the Customs declaration form affixed to each package or container.

Duration of Permits or Certificates

- 14. (a) An export permit or re-export permit issued or granted under these Regulations shall only be valid for import purposes if presented within six months of the date of issue.
- (b) The validity of an import certificate shall not exceed six months.
- (c) The Management Authority shall issue a separate permit or certificate for each consignment.
- (d) A permit issued under these Regulation is not transferable.
- (e) All used permits shall be surrendered to the Customs Office concerned at the time of import or export and the Customs Office shall transmit the surrendered permits to the Management Authority.
- (f) The Management Authority shall submit a certified photostat copy of the permit under paragraph (e) to the CITES Secretariat.

Importation and Exportation for Transit Purposes Rules

15. (a) A species or specimen imported under these regulations for the purpose of transit shall be imported only through a customs port specified in the First Column of the Fifth Schedule; and shall be a condition of the importation that the importer shall complete a transit declaration in the form contained in the Sixth Schedule.
- (b) A specimen imported under subregulation (1) shall be consigned to the consignee specified in the transit declaration and shall be exported within the period so specified from a customs port specified in the Second Column of the Fifth Schedule to these regulations.
- (c) Transit Declaration form should be completed and submitted to the competent authority, Commissioner of Customs and Management Authority with CITES export permit or certificate attached.
- (d) Exportation or Importation for transit purposes shall not be authorised for a non-party to the Convention.

Validity of Importation and Exportation for Transit Purposes

- 16 a) A transit declaration issued under regulation 15 shall be valid only if the species or specimens for which it was issued remained in an area or place designated by the Management Authority;
- (b) The Management Authority shall, in consultation with the competent authority, by Notice in the Gazette or in the transit declaration form in the Sixth Schedule, designate an area or place to which the species or specimens in transit shall be kept prior to exportation.
- (c) A species or specimen in transit kept outside the area or place designated under paragraph (a) may be seized by the Management Authority, competent authority or its recognised agent.
- (d) A person who contravenes this regulation commits an offence.

Validity of Documents from Non-party

17. (a) This Regulations shall apply to all specimens and species listed in the First Schedule whether the shipment is to or from a country that is party to the Convention, or to from any other country.
- (b) Without prejudice to paragraph (a) an export permit, re-export certificate, certificate of origin or any other certificate is valid only if it is issued and signed by a management authority of a country that is a Party.
- (c) In the case of a shipment from a country not party to the Convention, comparable documentation issued by the competent authorities in that state which documentation substantially conforms with the requirement of the present Convention for permits and certificates may be accepted in lieu thereof by the relevant authorities in Uganda.
- (d) A document issued under paragraph (c) -
- (i) may be in the form of an export or import permit, a letter from the proper

- authority, or any other form that clearly indicates the nature of the document;
- (ii) must be issued by an official of the country responsible for authorising the export of such wildlife or plants;
 - (iii) must specify the species and give the numbers of wildlife or plants covered by the document;
 - (iv) be in the format in the Eighth Schedule.

Trade in non-CITES Species

18. (1) No person shall possess or trade in the specimens of species listed in the Second Schedule unless he or she has a licence issued by the competent authority on the advice of the Scientific Authority.
- (2) A person who contravenes this regulation is liable to the penalty prescribed in section 76 of the Statute.

Domestic Trade or Possession of species in the Schedules

19. Without prejudice to the general effect of regulation 7, no person shall -
- (1) engage in domestic trade in any specimen and species listed in the First or Second Schedule unless he or she has obtained, prior to such trade, a valid permit or licence issued under these Regulations.
 - (2) possess, trade in or offer for sale any specimens and species listed in Part 1 of the Third Schedule unless he or she has obtained, prior to such possession, a valid permit, a grant of use right or any other lawful possession issued under section 4, paragraph (c) subsection (1) of section 15, section 19, or any other provision of the Statute or any other law.

Part IV - MISCELLANEOUS PROVISIONS

Relationship with Existing Laws

20. (1) For the avoidance of any doubt, the Statute and these regulations shall be read and construed as being in addition to and not in derogation from or in substitution for any legislation relating to customs or regulations made under section 68 of the Statute, customary belief, quarantine, public health or any other law whether made before or after the commencement of the Statute or these Regulations and the holder of a permit to import or export a specimen is not exempt from compliance with any of these laws that apply in relation to that specimen.
- (2) Without prejudice to the generality of sub-regulation (1) and of section 91, where the law or customary belief referred to above conflicts with or is inconsistent with the requirement of the Convention then the provision of the Convention or these regulations shall prevail and the law or customary belief shall to the extent of conflict or inconsistency be void.

Amendment of First Schedule

21. (1) The Minister shall, on the advice of the Management Authority, amend the First Schedule whenever the appendices to the Convention are amended.
- (2) Without prejudice to sub regulation (1) and for the avoidance of any doubt, an

amendment to the Convention appendices in the First Schedule shall immediately have force of law as from the date they have entered into force under the Convention.

- (3) The Management Authority shall, prior to the amendment in sub regulation (1), cause, by General Notice in the Gazette, for a list of the amendments to be published.
- (4) Notwithstanding the requirements of these Regulations with respect to the respective appendices in the First Schedule, the Minister may, in making the regulation under these regulations and on the advice of the Scientific Authority and the Management Authority direct that the controls applicable to Appendix I species under these regulations be made to apply to certain Appendix II or Appendix III species and from the date of the publication of that directive, those species listed shall be treated as if they are listed in Appendix I of the First Schedule.

Amendment of Schedules

22. The Minister may, on the advice of the Management Authority and after consultation with the Scientific Authority, competent authority and lead agencies, amend any other Schedule to these regulations.

FIRST SCHEDULE

CITES APPENDICES I, II and III

ANIMALS NOT BE HUNTED OR CAPTURED THROUGHOUT UGANDA EXCEPT FOR RESEARCH PURPOSES AND UNDER A SPECIAL PERMIT

1. Gorilla – *Gorilla beringii*
2. Chimpanzee – *Pan schweinfurthi*
3. Roam Antelope (Female) – *Hippotragus equinus*
4. Greater Kudu (Female) – *Strepsiceros strepsiceros bea*
5. White Rhinoceros – *Ceratotherium cottoni*
6. Ostrich – *Struthio camelus*
7. Heron (all species)
8. Egrets - *Cosmerodius albus melanorhynchus*; *Mesophoyx intermedius brachyrhynchus*; *Egretta garzetta garzetta*; and *Bubulcus ibis*
9. Whale-headed Stork – *Balaeniceps rex*
10. Saddle-bill Stork – *Ephippiorhynchus senegalensis*
11. Marabou Stork – *Leptoptilos crumeniferus*
12. Greater Flamingo – *Phoeniconaias minor*
13. Lesser Flamingo – *Phoeniconaias minor*
14. Secretary Bird – *Sagittarius serpentarius*
15. Vulture (all species) – *Aegypiidae*
16. Ground Hornbill – *Bucorvus abyssinicus*
17. Owl (all species) – *Taurotragus* and *Strigidae*
18. Giant Eland – *Taurotragus derbianus gigas*
19. Aard Wolf – *Proteles cristatus*

Annex II

CITES-listed Flora Indigenous to Uganda

| SCIENTIFIC NAME | CITES APPENDIX |
|-----------------------------|----------------|
| ORCHIDACEAE FAMILY | |
| <i>Ancistrochilus</i> spp | II |
| <i>Ancistrohynchus</i> spp | II |
| <i>Angraecopsis</i> spp | II |
| <i>Angraecum</i> spp | II |
| <i>Ansellia</i> spp | II |
| <i>Auxopus</i> spp | II |
| <i>Bolusiella</i> spp | II |
| <i>Bonatea</i> spp | II |
| <i>Brachycorhynchus</i> spp | II |
| <i>Bilbophyllum</i> spp | II |
| <i>Calanthe</i> spp | II |
| <i>Calypstrochilum</i> spp | II |
| <i>Chamaengis</i> spp | II |
| <i>Cheirostylus</i> spp | II |
| <i>Cirrhopetalum</i> spp | II |
| <i>Corymborkis</i> spp | II |
| <i>Cynorchis</i> spp | II |
| <i>Dendrobium</i> spp | II |
| <i>Diaphananthe</i> spp | II |
| <i>Disa</i> spp | II |
| <i>Disperis</i> spp | II |
| <i>Distylodon</i> spp | II |
| <i>Eggelingia</i> spp | II |
| <i>Epidendrum</i> spp | II |
| <i>Epipactis</i> spp | II |
| <i>Epipogium</i> spp | II |
| <i>Eulophia</i> spp | II |
| <i>Eurychone</i> spp | II |
| <i>Galeandra</i> spp | II |
| <i>Genyorchis</i> spp | II |
| <i>Geodorum</i> spp | II |
| <i>Graphorkis</i> spp | II |
| <i>Habenaria</i> spp | II |
| <i>Holothrix</i> spp | II |
| <i>Jumellea</i> spp | II |
| <i>Limodorum</i> spp | II |
| <i>Liparis</i> spp | II |
| <i>Listrostachys</i> spp | II |
| <i>Malaxis</i> spp | II |
| <i>Manniella</i> spp | II |
| <i>Microcoelia</i> spp | II |
| <i>Nephrangis</i> spp | II |
| <i>Nervilia</i> spp | II |
| <i>Oberonia</i> spp | II |
| <i>Ophrys</i> spp | II |
| ORCHIDACEAE*=391 spp | II |

| | |
|--|----|
| <i>Orchis</i> spp | II |
| <i>Ornithochilus</i> spp | II |
| <i>Pachystorma</i> spp | II |
| <i>Peristylis</i> spp | II |
| <i>Phaius</i> spp | II |
| <i>Platycoryne</i> spp | II |
| <i>Platylepis</i> spp | II |
| <i>Pleurothalis</i> spp | II |
| <i>Podangis</i> spp | II |
| <i>Pogonia</i> spp | II |
| <i>Polystachya</i> spp | II |
| <i>Pteroglossaspis</i> spp | II |
| <i>Rangaeris</i> spp | II |
| <i>Rhesteria</i> spp | II |
| <i>Stolsia</i> spp | II |
| <i>Triceratorhynchus</i> spp | II |
| <i>Tridactyle</i> spp | II |
| <i>Vanilla</i> spp | II |
| <i>Zeuxine</i> spp | II |
| CYATHEACEAE FAMILY (Tree Ferns) | |
| <i>Cyathea</i> spp | II |
| <i>Cyatheaceae</i> spp | II |
| ZAMIACEAE FAMILY | |
| <i>Encephalartos barteri</i> | I |
| <i>Encephalartos hildebrandtii</i> | I |
| <i>Encephalartos septentrionalis</i> | I |
| ZAMIACEAE* spp | II |
| CACTACEAE FAMILY | |
| <i>Rhipsalis</i> spp | II |
| EUPHORBIACEAE FAMILY | |
| <i>Euphorbia</i> spp | II |
| LILIACEAE (ALOACEAE) FAMILY | |
| <i>Aloe</i> spp (except <i>A. vera</i>) | II |
| ROSACEAE FAMILY | |
| <i>Prunus africana</i> | II |

Notes:

- 1) The abbreviation “spp” represents species of a higher taxon.
- 2) An asterisk (*) placed against the name of species of higher taxon indicates that one or more geographically separate populations, sub-species or species of that species or taxon are included in CITES Appendix I and are excluded from Appendix II.
- 3) The symbol “=” followed by a number placed against the name of a species of higher taxon denotes that the name of the species or taxon shall be interpreted as follows:

=391 – includes families *Apostaciaceae* and *Cypripediaceae* as sub-families *Apostacioideae* and *Cypripedioideae*.

Annex III

8-Step Counter Poaching Model of the South African National Parks

(PROACTIVE) CRIME PREVENTION

1. Criminal Information

- a) Informer network,
- b) Handling and payment of informers,
- c) Co-ordination of information,
- d) Analysis of patrol and research information,
- e) Liaison with neighbouring communities and other outside organisations and government bodies, and
- f) Liaise with relevant international authorities.

The gathering of information and intelligence relating to poaching activity is essential and, therefore, a key element to any pro-active counter poaching strategy. This information forms the basis and important component for the threat analysis.

2. Threat Analysis

- a) “Know your Poacher”,
- b) Information/Intelligence collection,
- c) Recruitment and management of sources/informers,
- d) Analysis of Field staff reports,
- e) Liaison with internal staff and outside communities and organisations,
- f) Centralise Information (Data base), and
- g) Disseminate intelligence and information on a need to know basis.

An extensive well-managed informer network will ensure the continuous flow of poaching-related information and intelligence. This incoming information and intelligence needs to be analysed, stored and disseminated to management or field personnel in order to identify potential threats and methods of operation long before any infiltration takes place. Successful counter measures rely on accurate intelligence. The threat analysis will be instrumental in supplying essential weaknesses to be addressed in the operational and animal security components.

3. Operations Security

- a) Detailed operational plan of action,
- b) Thorough briefing of Field staff on a “need to know” basis,
- c) Thorough debriefing sessions of Field staff and sources, and
- d) Operations security.

All operational plans rely on good intelligence and a well thought out plan of action, which takes all the operational factors into account. The security of the field staff is paramount in any action and therefore all the necessary steps need to be taken to ensure that they are briefed fully on all the elements. The better the intelligence, the better the operational briefing and security.

4. Animal Security

- a) Distribution (Concentrations) and movement of target animals,
- b) Target animal numbers,
- c) Water availability,
- d) Animal translocation,
- e) Boma held animals,

- f) Fencing, and
- g) Debriefing of Field staff and perusal of patrol reports.

A sound understanding of the target animals, their numbers, habitat, movement and distribution will assist in the action plans drawn up to protect them. It is important to ensure the animals safety during translocation and holding actions carried out during capture operations. It is during these times when the animals are extremely vulnerable.

5. Physical Security

- a) Para-military training of Field staff, and
- b) Essential equipment.

A highly motivated, well-trained and well-equipped Field staff member generally leads to successful counter operations. It is, therefore, important to ensure that Field staff receive the best training available and adequate serviceable equipment for the tasks at hand.

6. Authority/Jurisdiction

- a) Field staff and the Law,
- b) Crime scene attendance,
- c) Evidence collection,
- d) Arrest procedures,
- e) Court procedures, and
- f) Witness skills for Field staff

It is very important for Field staff to have a sound knowledge of the law. Without this, they are likely to become intimidated, reckless and possibly even be accused. The crime scene generally becomes the initial point of an investigation, because the handling of the crime scene will either make or break the case. It is, therefore, important that the scene is handled by investigators who have the necessary experience. The arrest of any person needs to be carried out according to the law, otherwise legal actions, lost cases and frustration result. The court can be a very intimidating place and cases are either won or lost by witnesses. Witnesses, therefore, need to be adequately schooled and prepared for court proceedings.

7. Planning Crisis Management

- a) Local (Total commitment to Reserve level),
- b) National (Partake in and contribute to), and
- c) International (Partake and contribute to).

(REACTIVE) CRIME PREVENTION

8. Performing Crisis Management

- a) Well-motivated, trained and equipped Field staff,
- b) Effective and efficient plan of action,
- c) Mobility, and
- d) Effective follow-up actions leading to arrest and convictions,

All information and intelligence gathered as well as lessons learnt during crisis management actions (actual poaching incident), are fed back into the system to contribute to the threat analysis and, therefore, the proactive components of the model, leading ultimately to general improvement in any further actions.

EIGHT STEP COUNTER POACHING MODEL
South African National Parks (SANP)

PROACTIVE
 Planning and Training

REACTIVE
 Action

