

MOZAMBIQUE

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7.1 Lei de Florestas e Fauna Bravia

Direcção Nacional de Florestas e Fauna Bravia (Forest & Wildlife Act 1999
(Translation): Framework Legislation)

MOZAMBIQUE
Forest and Wildlife Act
Revised Version (Final)

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PREAMBLE

The economic, social, cultural and scientific importance of forest and wildlife resources to the Mozambican society justifies the establishment of adequate legislation capable of promoting sustainable utilisation of these resources. The legislation should also encourage initiatives that will guarantee the protection and conservation of forest and wildlife resources for improvement of the Mozambican citizens' quality of life.

Under these terms, and as provided for in Article 135.1 of the Constitution, the Republic's Assembly decrees:

Chapter I
General Dispositions

Article 1
Definitions

For the purposes of the present Law, the following terms are understood and used according to the respective definitions:

1. **Degraded areas:** areas with adverse alterations of the environmental characteristics, including, among others, pollution, desertification, loss of habitat, erosion and deforestation.
2. **Environmental impact assessment:** a preventative environmental management instrument which consists of the identification, conducting the qualitative and quantitative analyses of the beneficial and adverse effects of a proposed activity before such activity undertaken.
3. **Biodiversity:** variety of living organisms, including genotypes, species and their groupings, terrestrial and aquatic ecosystems as well as ecological processes that exist in a given region.
4. **Hunting:** pursuing, capturing, collecting, mutilating, killing, destroying or utilisation of wild animal species, in whatever developmental phase, or undertaking expeditions for similar purposes.
5. **Local community:** group of families and individuals living in a territorial entity equivalent, at most, to a locality, and who intend to safeguard their common interests through the protection of habitation areas, agricultural areas, be they cultivated or lying fallow, forests, sites of cultural importance, grazing areas, water sources, hunting areas as well as expansion areas.
6. **Conservation:** sustainable management of forest and wildlife resources without putting the biodiversity at risk.
7. **Forest concession:** an area of public domain, demarcated and granted to a particular operator through a concession contract with the objective of forest exploitation destined for an industrial end according to a previously approved management plan.
8. **Official hunting areas:** are demarcated areas of public domain set aside for sport hunting, development of wildlife tourism and protection of species and in which areas the right to hunt is recognised only through a concession contract between the operator and the State.

9. Subsistence consumption: forest and wildlife exploitation undertaken by local communities without any commercial gains save for own consumption and for handicrafts, according to the respective customary practices.
10. Sustainable development: development based on environmental management that satisfies the needs of the present generations without causing environmental damage and at the same time leaving room for future generations to satisfy their needs also from the same environment.
11. Remains: meat, fat, fresh hides and skins, blood and all such parts of an animal that are not considered trophy.
12. Ecosystem: the dynamic complex of plant, animal and micro-organism communities and their non-living environment which, all together, constitute a functional unit.
13. Fragile ecosystem: an ecosystem that, by virtue of its natural characteristics and geographic location, is susceptible to rapid degradation of its attributes and difficult to recompose.
14. Erosion: the wearing away of the soil surface by the natural action of wind and water, and which is intensified by deforestation caused by people.
15. Species: any species, subspecies or any of its populations that may be isolated geographically.
16. General off-hunting season: that period of the year which coincides with the reproduction and growth of certain wildlife and forest species and during which hunting and forest exploitation activities are prohibited throughout the country.
17. Special off- hunting season: that period of the year which coincides with the reproduction and growth of certain wildlife and forest species and during which hunting and forest exploitation activities are prohibited in selected areas or for specified forest and wildlife species.
18. Forest exploitation: a whole set of measures and operations related to the extraction of forest products to satisfy human needs, namely, felling, transportation and milling of woody material; the extraction and curing of timber, including the production of charcoal, as well as the processing of timber including other activities which technology may indicate in future, irrespective of its final destiny.
19. Sustainable exploitation: controlled and rational use of forest and wildlife resources, through the application of scientific knowledge and techniques, aiming at meeting resources conservation objectives for future generations.
20. Wildlife: refers to all wild terrestrial animals, amphibians and birds, and aquatic mammals of all species and in all stages of development which living naturally as well as those wild species living in captivity for purposes of domestication, but excluding fish resources.
21. Game farms: are demarcated areas with or without physical fences but with well marked boundaries in which the right to hunt is reserved to the respective title holders or to those authorised by the title holders in the case where some of them may not have any valid hunting licences at hand.
22. Forest: vegetation cover capable of supplying timber or plant products, cover for wildlife, and exert a direct or indirect influence on the soil, climate or hydrologic regime.
23. Integrated management: the joint administration of forest and wildlife resources, including control over the use of these resources according to current legislation, and ensuring the effective participation of institutions, local communities, associations and the private sector.
24. Forest inventory: gathering of, measuring and recording of data on the quality and volume of forest resources, its dynamics, the regeneration and products that can be obtained per unit area, done in such a way as to supply information on the sustainable management of a given region or a particular forest.
25. Game survey: gathering of, measuring and recording of data on different species or animals, the density per unit area, density by age group or by sex and the general population density status, done in such a way as to supply information on the sustainable management of wildlife.
26. Monitoring: the process of undertaking periodic observations and measurements regarding one or more elements or indicators of environmental quality according to established programmes, in time and space, in order to evaluate the impact of human activities on the natural resources or the environment.
27. National operators: national, private individuals and groups corporate made up exclusively by Mozambican citizens.
28. National Park: demarcated territorial space set aside for the preservation of natural ecosystems, generally of high scenic beauty and representative of the national heritage.
29. Management Plan: technical document that contains activities and other technical measures to be implemented by various stakeholders in the conservation, management and utilisation of forest and wildlife resources.
30. Forest plantations: is the establishment of a continuous tree vegetation cover, normally by planting native or exotic tree species.

31. Forest and wildlife resources: forests and other vegetation forms, including forest products, wildlife, trophies, animal remains, whether in their raw state or processed.
32. National Reserve: territorial space reserved for the preservation of certain rare, endemic plant and animal species or those threatened with extinction, or those showing evident decline, and fragile ecosystems.
33. Objective Responsibility: legal obligation imposed on someone alleged to have caused damage to, irrespective of the existence of guilt or fraud, make good the damage, compensate, or do any other act of commission or omission.
34. Trophy: the durable parts of wild animals, namely, the head, the skull, horns, teeth, hides, hairs or silks, nails, claws, shells and egg shells, nests and feathers as long as they haven't lost their original aspect due to some manufacturing process.
35. Wilderness tourism/Game safaris?: wildlife activities including photography and filming of wild animals for recreation or business.
36. Alternative land use: the designation of areas covered by forests or other forms of natural vegetation for agriculture, livestock or other such utilisation established during the zoning or land use planning which would imply modifying those areas significantly in comparison to their original state, including high impact public works such as roads, railway lines, embankments and servitude for power line transmission poles.
37. Historical and cultural value use zones: territorial space set aside for the protection of sacred forests and other sites of historical importance and of cultural significance to the local community.
38. Buffer zone: a territorial portion that surrounds a protected zone/area, and which forms the transitional strip between the protected areas and the multiple use areas, with the objective of controlling and reducing the impacts of human activities on the respective protected area.
39. Zoning: division and classification of the forest and wildlife heritage in accordance with vegetation type and alternative land uses.

Article 2

Scope

The present law establishes the basic principles and norms for the protection, conservation and sustainable utilisation of forest and wildlife resources under an integrated management framework, for the economic and social development of the country.

Article 3

Principles

The provisions of the present law and its regulation shall be governed according to the following principles:

- a) the state public domain: the indigenous forest and wildlife resources in the national territory are state property;
- b) equilibrium: all policies on the social and economic development and on biodiversity preservation and conservation must involve the local communities, the private sector and the general public, with the objective of achieving sustainable development today and for future generations;
- c) prevention and prudence: the introduction of animal and plant species and of modern technologies into the forest and wildlife sector should be preceded by impact evaluation studies in order to guarantee sustainability;
- d) objective responsibility: anyone who cause damages to forest and wildlife resources is obliged to do good to the damage so caused or to recompose or compensate the degradation as well as damages to third parties, irrespective of other legal consequences;
- e) respect for local communities and local government organs: promoting the conservation, management and utilisation of forest and wildlife resources without contradicting the local customary practices and according to the principles of conservation and sustainable utilisation of forest and wildlife resources in the framework of decentralisation;
- f) private sector participation: involvement of the private sector participation in the management, conservation and exploitation of forest and wildlife resources, aiming at adding value as well as promoting development for the local communities;
- g) research and development studies: promoting research into indigenous species in such a way that all resource users and other stakeholders may collect data and take measurements that can be processed by competent entities at a later date;
- h) formal and informal environmental education: education and exchange of experiences among local communities with the objective of building local capacity in the management and conservation of forest and wildlife resources;

- i) international co-operation: harmonisation of solutions regarding the protection, conservation and management of forest and wildlife resources with other countries and international organisations.

Article 4 Objectives

The objectives to be followed in terms of this law are the protection, conservation, development and rational utilisation of forest and wildlife resources for the economic, social and ecological benefit of present and future generations of Mozambicans.

Article 5 Forest Heritage

1. The national forest heritage has the following classification according to potential, location and mode of utilisation:
 - a) Conservation forests – made up of vegetation formations located in protection areas and subject to a special management regime;
 - b) Productive forests – made up of vegetation formations of high forestry potential, located outside protection areas;
 - c) Multiple-use forests – made up of vegetation formations located outside protection areas and with low forestry potential.

Article 6 Wildlife Heritage

The wildlife heritage consists of all wild animals in the national territory and is classified in function of its rarity, economic and socio-cultural value for species listed under a special decree

Article 7 National Private Sector Participation

During the process of applying regulatory measures which go together with this law, the Ministerial Council should include measures that motivate the national private sector to participate in the exploitation, management and conservation of forest and wildlife resources.

Article 8 Exporting forest and wildlife products

The State promotes the establishment of industries for the processing of forest and wildlife products, with the aim of gradually increasing exports of manufactured goods through specified regulatory measures.

Article 9 Title holder for use and improvement of land

The holder of a title, whether by virtue of occupation or through authorised request, to the right to use and make improvements on land does not necessarily have a licence to exploit the forest and wildlife resources in the respective area, save in those cases where such exploitation is undertaken solely for subsistence purposes.

Chapter II Protection of Forest and Wildlife Resources

Article 10 Protection Areas

1. Protection areas are demarcated land areas representative of the natural national heritage set aside for the conservation of biodiversity and of fragile animal or plant ecosystems.
2. The following are considered protection areas:
 - a) national parks;
 - b) national reserves;
 - c) areas of historical and cultural value.

3. It is within the powers of the Ministerial Council to establish a buffer zone around any of the protection areas, in which buffer zones there may be allowed multiple uses of the resource according to the limitations established by the respective management plan.
4. It is within the powers of the Ministerial Council to create, modify or declare null and void the protection areas referred to in subsections a) and b) of section No. 2 above.
5. The management of protection areas referred to in subsections a) and b) of section 2, must be conducted according to the Management Plan elaborated in a participatory manner involving the local communities and approved by the respective and responsible sector.
6. It is within the powers of respective Provincial Governors to declare an area referred to in subsection c) of section 2, according to the terms defined by Ministerial Council Decree.
7. The delimitation of protection areas shall be registered in the National Land Cadastre, without any exception.
8. In the public interest or for other reasons, the Ministerial Council may, in exceptional cases, authorise certain activities in the protection areas referred to in this law.

Article 11 National Parks

1. National parks are demarcated areas of total protection representative of the national heritage and set aside for the propagation, protection conservation and management of vegetation and wild animals as well as the protection of sites, landscapes or geological formations of particular scientific, cultural or aesthetic value in the public interest and for public recreation.
2. Save for scientific reasons or for management factors, the following activities are strictly forbidden in National Parks:
 - a) hunting within the park boundaries;
 - b) forest, agricultural, mineral or livestock exploitation;
 - c) scouting or prospecting, drilling or embanking;
 - d) all activities with a tendency to modifying aspects of the land or vegetation characteristics, as well as causing water pollution and, in general, any act which, by its nature, may provoke plant and animal perturbations;
 - e) any introduction of zoological or botanical species, be they indigenous or exotic, wild or domestic.

Article 12 National Reserves

1. National reserves are areas of total protection set aside for the protection of certain plant and animal species that are rare, endemic, threatened with extinction or in imminent decline, and of fragile ecosystems such as wetlands, dunes, mangroves and coral reefs, as well as the conservation of the flora and fauna present in the same ecosystems.
2. The same permissions and prohibitions applied to national parks are also applied to national reserves with the exception of those provided for in this law.
3. The resources in national reserves may be used, through a licence according to the regulations in effect and as long as such utilisation does not prejudice the specific reason for which the reserve was formed and as long as the utilisation is in accordance with the respective management plans.

Article 13 (Areas of Historical and Cultural Value)

1. Areas of historical and cultural value are those areas set aside for the protection of forests with a religious interest and other sites of historical and cultural use, in accordance with the customary practices and norms of the local communities.
2. The forest and wildlife resources found in these areas can only be utilised according to the customary practices and norms of the local communities.

Chapter III
Regimes of Sustainable Exploitation of Forest Resources

Article 14
Forest exploitation regimes

1. The exploitation of the national forest heritage must observe the following regimes:
 - a) Exploitation by way of a simple permit;
 - b) Exploitation by way of a forest concession contract.
2. A Ministerial Council decree shall fix the terms and conditions for the exploitation of forest resources under the regimes provided for in the previous section.

Article 15
Exploitation by way of simple permit

1. Exploitation under a simple permit is subject to limited quantities and duration and is exercised exclusively by national operators and local communities in the productive and multiple use forest areas for commercial, industrial and fuel purposes, observing an approved management plan.
2. Holders of the permit in the previous section should, during the process of applying for the said permit, show proof of possession of the technical capacity to harvest and transport the requested forest products as well as indicate the final destination of the same products.
3. The forest exploitation undertaken by members of the local communities for subsistence purposes is done in accordance with customary norms and practices of the respective communities.

Article 16
Exploitation under a forest concession contract

1. Exploitation under a forest contract is carried out in productive forests and in multiple use areas by private individuals or groups and by local communities to supply industrial processing plants or for fuel purposes, in all cases respecting the management plan approved by the respective sector.
2. The holder of the concession permit referred to in the previous section must guarantee the processing of the forest products harvested, in accordance with the regulatory terms.
3. The holder of a concession permit may process forest products harvested by operators under a simple permit provided the two parties enter into a contract formalising such arrangements.
4. The concession contract referred to in the present law is subject to a maximum duration of 50 years, renewable for equal periods at the request of the interested party.

Article 17
Forest concession area

1. In determining the forest concession area to be granted, the installed industrial and technical capacity to process timber, among other criteria fixed by regulation, must be considered critically.
2. The granting of a forest concession shall always be preceded by consultation with affected communities in the respective area, through local government administrative organs.

Article 18
Third party rights

Forest exploitation for commercial, industrial or energy purposes should always safeguard all rights to third parties existent in the area being exploited as well as safeguarding unimpeded access by the local communities into the area being exploited and including use rights of the natural resources which these communities need for their subsistence.

Article 19
Forest exploitation for energy

1. There shall be established, through a specific decree, a list of species whose forest products may be set aside for the production of firewood and charcoal.
2. Holders of simple and forest concession permits enjoy preferential treatment for the acquisition of firewood and charcoal licence so that they may utilise the by-products resulting from their main exploitation activities, according to the regulation.

Chapter IV
Regimes of sustainable wildlife resources exploitation

Article 20
Wildlife exploitation regimes

1. Exploitation of wildlife in the country should follow these modalities;
 - a) simple hunting permit;
 - b) sport hunting;
 - c) commercial hunting;
2. By way of a specific decree, there shall be stipulated terms and conditions as well as annual quotas for animals to be hunted and stipulated the instruments allowed for the practice of hunting under the modalities referred to in the previous section.

Article 21
Simple hunting permit

1. Hunting under simple permit is practised by private national individuals and by local communities in multiple use forest areas and in historical and cultural value areas, with the objective of satisfying subsistence needs.
2. The issuing of hunting permits to local communities, according to the terms in the previous section, shall be done by Local Councils in accordance with the customary norms and practices and in co-ordination with the responsible sector.

Article 22
Sport hunting

1. Sport hunting is carried out by national or foreign private individuals, through wildlife tourism, in the official hunting safari areas and in game ranches.
2. National private individuals may undertake the hunting modality referred to in the previous section in multiple use areas according to the regulatory terms.

Article 23
Commercial hunting

Commercial hunting is undertaken by private individuals or groups on game ranches with the objective of getting meat or trophies for sale, or for purposes of domestication of wild animals according to the terms of the current law and the other relevant legislation.

Article 24
Hunting instruments and means

The restrictions to hunting shall be subject to specific regulation, prohibiting all use of means and instruments which result in indiscriminate catching of species as in the case of fires, explosives, snares, mechanical traps, poisonous substances and automatic firearms.

Article 25
Hunting in defence of people and property

1. Hunting outside the modalities foreseen in the present law will only be allowed in defence of people and property against actual or imminent attack by wild animals and in the event that scaring away or capturing such animals is not possible.
2. The hunting referred to in this article is readily exercised, after gathering the relevant facts, by specialised State brigades or by the private sector and by duly authorised local communities.

Article 26
Trophies

By way of a specific decree, there shall be established a list of trophies subject to manifest and those considered State heritage.

Chapter V
Repopulating forest and wildlife resources

Article 27
Forest plantations for conservation purposes

1. The State promotes the recuperation of degraded areas through forest plantations, preferably on dunes, in watersheds and in fragile ecosystems.
2. In the case where the degradation was caused by deforestation, fire or any such voluntary act, the perpetrator shall be obliged to undertake the recuperation of the degraded area according to the terms and conditions to be defined by the appropriate regulation, irrespective of other civil or criminal proceedings that may be involved.
3. In protection areas transforming the degraded area into a different use category shall not be allowed, the degraded area should be recuperated back into its previous condition.

Article 28
Forest plantations for commercial, industrial and energy purposes

1. The State promotes the development of forest plantations for commercial, industrial or energy purposes according to the ecological characteristics of every area, as per terms to be established by regulation.
2. The planting of forest species by private individuals or groups according to the present law will be rewarded with special incentives to be defined by the specific decree.

Article 29
Wildlife restocking

1. The State promotes wildlife restocking according to laid down and approved management plans and observance of the law dealing with the specific subject matter.
2. Anyone who, by whatever manner, causes the decline of wildlife shall be required to restock the affected species according to the terms and conditions to be determined by a specific decree, irrespective of any other surrounding sanctions.
3. The restocking of wildlife by private individuals or groups according to the present law will be rewarded with special incentives to be defined by the specific decree.

Article 30
Rearing and exploitation of wild animals

1. the rearing and exploitation of wild animals should be undertaken in conveniently fenced areas, observing the management plan.
2. The terms and conditions for rearing and exploiting wild animals referred to in the previous section shall be defined in a specific decree to.

Chapter VI
Management of forest and wildlife resources

Article 31
Participatory management

1. There shall be created Local Resources Management Councils, made up of representatives from the local community, the private sector, associations and State local authorities with the aim of protecting, conserving and promoting the sustainable use of forest and wildlife resources.
2. A Ministerial Council decree will define the prerogatives and competencies of the Local Councils referred to in the previous section.
3. The management should ensure local community participation in the exploitation of forest and wildlife resources and in the benefits generated through such utilisation.

Article 32
No-exploitation periods

It is within the Ministerial Council's powers to establish general and special no-exploitation periods as provided for in the present law.

Article 33
Delegation of powers

The State may delegate forest and wildlife resources management powers, including powers for the restocking of forest and wildlife species, to local communities, associations or the private sector, without infringing the inspection rights of the competent authorities.

Article 34
Obligatory nature of authorisation

It is obligatory to obtain an authorisation for the exploitation, commercialisation, utilisation as well as transporting, be it by land, river, sea or air, forest and wildlife products, according to the terms of the present law and the relevant regulation, except in those cases foreseen and provided as such by the law.

Article 35
Fees

1. Fees shall be paid to the State for the access to and utilisation of forest and wildlife resources, as well as for contemplative tourism in national parks and reserves.
2. A Ministerial Council decree shall fix the values of fees referred to in the previous section, as well as fees for the issue of permits, transit permits, certificates and other such authorisations.
3. Local communities utilising forest and wildlife resources for subsistence in their respective areas shall be exempt from paying any fees.
4. Besides the fees charged for forest and wildlife exploitation, a surtax will be charged for the respective forest and wildlife restocking.
5. A decree will determine percentages of revenue collected from forest and wildlife exploitation to be handed over to the local communities resident in the areas being exploited.
6. It is within the powers of the Ministerial Council to review the fees periodically.

Article 36
Instruments for applying the law

The following are fundamental instruments for the application of the present law;

- a) institutional, technical and scientific agreements of co-operation at the national level;
- b) international treaties and conventions;
- c) concession contracts and authorisations of activities, such as permits, transit passes and certificates;

- d) environmental impact assessment;
- e) forest and wildlife development fund;
- f) specific and complementary regulations;
- g) forest and wildlife inventories;
- h) lists of plant and animal species;
- i) compensatory measures for correcting of damages caused to the environment;
- j) management plan;
- k) programme for prevention against fires;
- l) forest and wildlife zoning;
- m) forestry and wildlife national programme.

Chapter VII Inspection

Article 37 The exercising of inspection

1. It is within the powers of the Ministerial Council, according to regulatory terms to be established, to guarantee forest and wildlife inspection with the objective of directing and imparting discipline in conservation, utilisation and management activities regarding forest and wildlife resources.
2. All citizens, especially the local Resources Management Councils as well as permit holders, must collaborate in exercising the vigilance needed for the protection of forest and wildlife resources, reporting offences to the nearest authorities.
3. In carrying out their duty, the forest and wildlife guards shall be required to wear identifiable uniform and they shall have the right to carry firearms and other equipment that may be defined by decree.
4. Forest and wildlife inspection shall be carried out by forest and wildlife guards, by sworn-in guards, and by community agents, according to the terms and conditions to be defined by a specific decree.
5. Forest and wildlife guards are under obligation to impound all forest and wildlife products and the instruments used to commit an offence.
6. Vehicles and other means used to illegally transport forest and wildlife resources shall be considered as instruments for the purposes of the previous section.
7. Forest and wildlife guards, sworn-in guards, and community agents shall seek help and police reinforcement from the nearest authorities, whenever necessary, to guarantee the discharge of their functions.

Article 38 Inspection posts

1. There shall be established fixed and mobile forest and wildlife inspection posts, duly sign posted, for the purposes of checking forest and wildlife permits.
2. All people and vehicles are required to stop at the forest and wildlife inspection posts whenever asked to do so by the forest and wildlife guards, sworn-in guards or community agents.

Chapter VIII Offences and penalties

Article 39 General rules

1. The offences foreseen in this law shall be punishable by fine and accompanied by measures for the recuperation or obligatory compensation of the damages caused, without prejudice to other sanctions that may be required.
2. It is within the powers of the Ministerial Council to revise periodically the values of fines in this law.
3. Failure to voluntarily pay the fine subjects the offender to the consequences set up in the penal code, under the jurisdiction where the offence was committed, independently of administrative procedures and competent civilians.

4. A specific decree will fix the values of fines accruing from forest and wildlife related offences and which shall be distributed among the various stakeholders in the process of forest and wildlife resources inspection and control.
5. For the purposes of the previous section, by stakeholders in the process of forest and wildlife resources inspection and control is meant forest and wildlife guards, community agents and the local communities who will have participated in reporting the offence and, in general, any citizen who has denounced the offence.

Article 40

Forest fire crime

Anyone who starts a fire on purpose and destroys wholly or partially a crop field, a forest, woodland or woodlot shall be condemned to a prison sentence of up to one year and the corresponding fine.

Article 41

Forest and wildlife offences

1. The following constitute offences punishable by a fine between 2.000.000,00 and 100.000.000,00 MT:
 - a) undertaking any acts of forest exploitation without authorisation or by not observing the conditions of the authorisation;
 - b) the practice of any acts that perturb or disturb wildlife in protection areas;
 - c) hunting without a licence or not following the conditions legally established in the licence;
 - d) importing or exporting forest or wildlife resources without a valid licence or not following the conditions stipulated by law;
 - e) Abandoning forest and wildlife products obtained through a licence.
2. The following constitute offences punishable with a fine of between 1.000.000,00 and 20.000.000,00 MT:
 - a) storage, transporting or commercialisation of forest or wildlife resources without authorisation, according to the conditions established by law;
 - b) receiving forest or wildlife resources without checking on the authorisation of the vendor or of the transporter.
3. If the offence committed involves rare plant and animal species, or those threatened by extinction as well as any others whose exploitation is forbidden, then the fine applied shall be 10 times the maximum value provided for in this article, without prejudicing any other sanctions that may be there.

Article 42

Aggravating and extenuating circumstances

1. The following constitute aggravating circumstances in the ranking of fines, besides the others fixed in the general law:
 - a) committing an offence in protection areas;
 - b) committing an offence during the breeding or off-hunting season;
 - c) committing an offence against rare forest and wildlife species, or species threatened with extinction or those about to get extinct, as declared by law;
 - d) if the offender is a forest and wildlife guard, a sworn-in guard, community agent, administrative authority, member of the police, customs officer, coast guard or equivalent agent;
 - e) Committing the offence at night, on Sundays and public holidays;
 - f) Use of violence, threat, or, under whatever form resist inspection;
 - g) Being an offender or an accomplice while at the same time possessing a forest or wildlife licence;
 - h) Using prohibited instruments and practices;
 - i) Committing the offence in organised groups.
2. The following constitute extenuating circumstances in the ranking of fines, besides the others fixed in the general law:

- a) being a first offender;
- b) the offender having spontaneously and voluntarily look for forest and wildlife guards as well as reporting the damages caused.
- c) The offender being completely ignorant and having no notion of the consequences of the act done, considering previous background, literacy level, socio-economic conditions, regional and local habits in the area where the offender lives.

Article 43
Mutual responsibility

The following have to answer mutually for an offence committed:

- a) beneficiary of the offence;
- b) anyone who facilitates or competes for the commission of the offence;
- c) the forest and wildlife guard, the sworn-in guard and community agent who fail to take the measures provided for in the present law and its regulations, as well as anyone who had the legal obligation to collaborate in exercising vigilance but did not do so.

Article 44
Additional penalties

The following additional penalties result from the application of fines provided for in the present law:

- a) forfeiture in favour of the State of forest and wildlife products and of the instruments used in committing the offence;
- b) confiscation and cancelling of permits issued in the offender's name;
- c) interdiction of the issuing of new permits for a period of one year.

Article 45
Fate of impounded goods

The impounded products, objects and instruments declared as forfeited in favour of the State according to the present law shall have the following fate:

- a) disposal in a public auction, except in those cases as provided for by this law;
- b) donation of perishable products to social institutions and for-no-profit organisations, after a detailed report has been included into the impoundment process;
- c) redirecting of live plant and wildlife specimens to their areas of origin or to the nearest protection area.
- d) Returning the instruments back to the first offender, as long as these are not prohibited, after the payment of the respective fine and fulfilment of the other legal sanctions and obligations.

Chapter IX
Final Dispositions

Article 46
Previous legislation

Number 2 of Article 464 of the penal code and all other legal dispositions which contradict the present law are repealed herewith.

Article 47
Regulation

It is within the powers of the Ministerial Council to adopt the regulatory measures necessary for putting this law into effect.

Article 48
Entry into effect