

(The) Control of International Trade of Endangered Wild Fauna and Flora Act, 2017

An Act to Regulate and Control International Trade in Endangered Wild Fauna and Flora

Preamble: Whereas it is expedient to make necessary legal provisions for conservation of various species of the endangered fauna and flora in order to implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973 to which Nepal is a party and for regulation and control of international trade thereof;

it enacted by the Legislature-Parliament referred to in clause (1) of Article 296 of the Constitution of Nepal.

Chapter-1

Preliminary

1. Short Title, Extension and Commencement: (1) This Act may be cited as "(the) Control of International Trade of Endangered Wild Fauna and Flora Act, 2017."
 - (2) This Act shall come into enforcement throughout Nepal and shall apply also to persons committing an act that is deemed to be an offence under this Act living anywhere outside Nepal.
 - (3) This Act shall come into force at once.
2. Definitions: Unless the subject or context requires otherwise, in this Act,-
 - a) "License" means a license issued pursuant to sub-Section (1) of Section 6 and sub-Section (3) of Section 8.
 - b) "Investigation Officer" means an investigation officer referred to in Section 23.

- c) "Specified" or "as specified" means specified or as specified in the Rules framed under this Act.
- d) "Threatened wild fauna or flora" means any species or sub-species of any fauna or flora referred to in Appendix -1 to the Convention.
- e) "Specimen" means the following matters:
 - 1) Body of any endangered wild fauna, dead or alive, or any part of body, portion, blood, teeth, saliva, bone, hide, fur, horn, or any substance or any derivatives made or prepared or used from mixture of such substance of such fauna; and
 - 2) Any endangered flora or any part thereof, piece, trunk, branch, leave, fruit, flower, seed, bark, root or any substance or goods made or prepared or used from mixture of such substance of such flora.
- f) "Export" means an act of exporting out from Nepal and also includes re-export.
- g) "Captive breeding" means carrying out ex situ conservation of endangered wild fauna and producing the first generation of such species by breeding process for protection of genes of such species or carrying out ex situ conservation of endangered wild flora and producing seeds or planting, rearing seedlings of such species for protection of genes of such species.
- h) "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) concluded on March 3, 1973 at Washington D.C., the United States of America.

- i) "Vulnerable wild fauna or flora" means any species or sub-species of the wild fauna or flora referred to in Appendix -2 to the Convention.
- j) "Scientific Authority" means the Scientific Authority referred to in Section 18.
- k) "Management Authority" means the Management Authority referred to in Section 16.
- l) "Endangered wild fauna or flora" means a threatened wild fauna or flora; vulnerable wild fauna or flora; and protected wild fauna or flora.
- m) "Warden" means a person designated by Government of Nepal for conservation and management of a national park, wildlife reserve, protected area or buffer zone.
- n) "Protected wild fauna or flora" means a species or sub-species of the wild fauna or flora referred to in Appendix -3 of the Convention.
- o) "Organization" means a corporate body formed according to the law in force with the objective of carrying out functions relating to wild fauna or flora.

Chapter-2

Provisions concerning Transactions of Endangered wild fauna or flora or specimen thereof

3. Prohibition on Trade or Transaction of Threatened or Vulnerable wild fauna or flora or specimen thereof: (1) No person shall purchase, sell, possess, use, plant, rear, captive breed, transport or import or export or cause to be done so a threatened or vulnerable wild fauna or flora or a specimen thereof.

(2) Notwithstanding anything contained in sub-Section (1), a threatened or vulnerable wild fauna or flora or a specimen thereof may be

purchased, sold, possessed, used, captive bred, transported, imported or exported for the purposes as follows, having obtained a license pursuant to Section 6 and subject to the prescribed terms and conditions:-

- a) To rear wild fauna;
- b) To plant and rear plants;
- c) To produce or purchase or sell within the country or outside the country wild fauna or flora or a specimen thereof;
- d) To use for the purpose of studies, researches, experiment, trainings, exhibitions, conservation education, genetic resource conservation or for academic purposes.

4. License to be requested: Any person, organization or agency willing to carry out any act referred to in sub-Section (2) of Section 3 shall have to request for a license from the Management Authority.

5. Advice to be required: (1) In case of request for a license made pursuant to Section 4, the Management Authority shall ask for advice along with recommendation from the Scientific Authority.

(2) In case advice along with recommendation is sought pursuant to sub-Section (1), the Scientific Authority shall conduct study on the matter, and, if it is confident that the grant of such a license will not be detrimental to the existence of the threatened or vulnerable species of wild fauna or flora in Nepal, it may make recommendation to the Management Authority to grant such a license.

(3) The procedures to be followed while making recommendation by the Scientific Authority pursuant to sub-Section (2) shall be as prescribed.

6. License may be granted: In case recommendation is received from the Scientific Authority pursuant to Section 5 and in case the Management

Authority is satisfied that the following situation prevails, it may issue a license to the person, organization or agency making the request as prescribed:-

- a) In case such wild fauna or flora or a specimen thereof is in the ownership or control of the person, organization or agency seeking a license, for the business other than those of import;
- b) In case the such wild fauna or flora or a specimen thereof is found to have been acquired according to the prevailing law by the person, organization or agency seeking a license for the business other than those of import;
- c) In case of submission of certificate of good health of such wild fauna or flora or a specimen thereof;
- d) In case of living wild fauna, if there are appropriate and adequate provisions made for its transportation and there are grounds to believe that no chances of sustaining any injury or wound or causing damage to its health are there or it would not be treated in cruel manner;
- e) In case a license or a letter of intent to issue a license is received from the authorized agency of the country to which such wild fauna or flora or a specimen thereof is intended to export; or a license or a letter of intent to issue a license for export is received from the authorized agency of the country from which such wild fauna or flora or a specimen thereof is intended to import to Nepal;

- f) In case it seems that such wild fauna or flora or a specimen thereof will be used only for the purpose for which it is imported to Nepal and that it will not be used for commercial purpose;
- g) In case a letter of assurance is received from the authorized agency of the country to which such wild fauna or flora or a specimen thereof is intended to export to the effect that it will not be used for commercial purpose.

(2) In order to be assured of the situation referred to in sub-Section (1), the Management Authority may seek for any original document or a copy thereof as may be necessary and, if it is so sought the concerned person, organization or agency shall submit the documents accordingly.

(3) While granting a license pursuant to sub-Section (1), the Management Authority may specify necessary terms and conditions in the license as to the use, management, rearing, conservation, habitat, means of transportation or routes of such wild fauna or flora or a specimen thereof and it shall be the duty of the concerned person, organization or agency obtaining a license to comply with such terms and conditions.

(4) The person, organization and agency obtaining the license shall use or cause to be used the wild fauna or flora or a specimen thereof only for the purpose for which a license has been granted.

(5) The license granted under this Section shall be valid only for the purpose of the person, organization and agency who has obtained it and it shall not be transferred to any other person, organization and agency for use.

(6) In case a person, organization or agency obtaining the license commits any act in contravention of sub-Sections (3), (4) or (5), the

Management Authority may revoke the license at any time having followed the procedures as prescribed.

(7) Matters concerning the period of validity a license, its renewal, applicable fees and revocation shall be as prescribed.

7. Threatened species of wild fauna or flora or specimen thereof to be deemed:

Notwithstanding anything contained elsewhere in this Act, the following wild fauna or flora or a specimen thereof produced by any person, organization and agency through ex-situ conservation as prescribed having obtained a license pursuant to sub-Section (1) of Section 6 shall be deemed to be the threatened species of the wild fauna or flora or a specimen thereof:-

- a) The first generation (F1 generation) produced from a threatened wild fauna or a specimen thereof used as seed by way of captive breeding or a wild fauna or a specimen thereof produced thereafter having obtained license for that purpose;
- b) The flora or a specimen thereof propagated or produced through artificial propagation or production from a threatened flora or a specimen thereof being used as seed according a license;

Provided that the wild fauna or flora or a specimen thereof used as seed for producing such wild fauna or flora according to license shall be deemed to be a threatened wild fauna or flora or a specimen thereof.

8. Transaction of protected wild fauna or flora may be made: (1) A person,

organization or agency willing to rear a protected wild fauna or to plant or raise a protected wild flora or to possess, use, produce, trade as a seeds, transport or export or import such a wild fauna or flora or a specimen thereof shall have to obtain a license.

(2) A person, organization or agency willing to obtain a license shall pursuant to sub-Section (1) submit an application to the Management Authority as prescribed.

(3) In case of submission of an application pursuant to sub-Section (2), the Management Authority may, in case it is confident of the following facts while carrying out inquiry and in consultation with the Scientific Authority, grant a license for any or all of the purposes referred to in sub-Section (1) as prescribed:-

- a) In case such wild fauna or flora or a specimen thereof is found to be under the ownership of the person, organization or agency requesting for the license, except the license for import;
- b) In case such wild fauna or flora or a specimen thereof is found to have been acquired by the person, organization or agency requesting for the license according to the law in force, except the license for import;
- c) In case there are adequate provisions made for transportation of living wild fauna and there are reasons to believe that no wounds or injuries would be sustained or damage is caused or no cruel treatment would be made to such fauna while carrying it.

(4) While granting a license pursuant to sub-Section (3), the Management Authority may prescribe conditions as may be necessary for the methods of keeping, using, feeding, planting and rearing or producing such wild fauna or flora or a specimen thereof and for routes, means of transportation, habitat and for other necessary matter in order to carry out for trade in, transportation, or export or import of such wild fauna or flora or a specimen thereof; and it shall be the duty of the concerned

license-holder person, organization or agency to comply with such conditions.

(5) In case of non-compliance of the conditions referred to in sub-Section (4), the Management Authority may at any time revoke such a license.

(6) Other matters concerning the period of the license, renewal, revocation, fees, and other procedures thereof shall be as prescribed.

9. Certificate of Origin and Export Permission to be required:

Notwithstanding anything contained in Section 8, while importing a specimen of any protected wild fauna or flora, the certificate of origin and export license of the country getting such species of wild fauna or flora included in Appendix -3 of the Convention shall be required.

10. Special Provision concerning re-export: (1) No threatened wild fauna or flora or a specimen granting thereof once imported to Nepal shall be re-exported without a license for re-export under this Section.

(2) A person, organization or agency willing to re-export a threatened wild fauna or flora or a specimen thereof pursuant to sub-Section (1) shall have to submit an application to the management agency.

(3) In case of filing of an application pursuant to sub-Section (2) and in case the endangered wild fauna or flora or the specimen thereof intended to re-exports found to have been imported to Nepal under this Act or the law in force, the Management Authority may issue a license to re-export such a wild fauna or flora or the specimen thereof having fulfilled the procedures referred to in Sections 6 or 8.

11. No Risks to Existence of Fauna or Flora: (1) Notwithstanding anything contained in sections 6, 8 and 10, a license shall be granted only after ensuring that the wild fauna or flora or specimen thereof shall be used only for the purpose for which the license has been granted and that it

would not cause extinction or pose further threat or danger to the survival of such wild fauna or flora.

(2) Once a license is granted under this Act to carry out transaction of a endangered wild fauna or flora or a specimen thereof, the Management Authority or the authority designated by it shall have to conduct regular monitoring or surveillance as to how such a wild fauna or flora or a specimen thereof is being used by the person, organization or agency so licensed.

(3) While carrying out monitoring or surveillance pursuant to sub-Section (2), in case the person, organization or agency being granted the license is found to have been using the threatened wild fauna or flora or a specimen thereof in contravention to the terms and conditions of the license, the agency carrying out such monitoring or surveillance may at any time forfeit or take into custody such a wild fauna or flora or specimen thereof.

(4) In case the person obtaining the license has exported a endangered wild fauna or flora or a specimen thereof, the Management Authority or an agency designated by such as Authority shall, for the purpose of this Section have to maintain regular contact with authorized agency of the concerned foreign country.

12. To have become a state party to Convention: Notwithstanding anything contained elsewhere in this Chapter, a license shall be granted to export an endangered wild fauna or flora or a specimen thereof only to a state that is a party to the Convention.

Chapter-3

Provisions concerning Registration of the Endangered wild fauna or flora or specimen thereof

13. Endangered species of wild fauna or flora to be registered: (1) In case at the time of commencement of this Act, one who has retained or used any living species of endangered wild fauna or flora or planted and reared any endangered plant or rearing any endangered wild fauna or flora or has domesticated it and used it with or without obtaining a license for the purpose of study, research, experiment, training, demonstration, conservation education, bio-researches conservation, education or any other propose the concerned person, organization or agency shall have to submit an application to the Management Authority for registration of such wild fauna or flora within a period of one year from the data of commencement of this Act.

(2) In case of submission of an application pursuant to sub-Section (1), if the Management Authority is confident of the fact that such wild fauna or flora has been retained or used without prejudice to the law in force, it shall register such wild fauna or flora as prescribed and a certificate of registration shall be issued to the concerned person, organization or agency.

(3) The wild fauna or flora retained or used without fulfilling the procedures under this Section shall be confiscated as prescribed.

(4) The period of validity, renewal, registration fee and other matters for the certificate to be issued under this Section shall be as prescribed.

14. Imported endangered wild fauna or flora or specimen thereof to be registered: (1) An endangered wild fauna or flora or a specimen thereof imported to Nepal under this Act or Rules framed hereunder shall be registered as prescribed.

(2) For registration of the wild fauna or flora or specimen thereof referred to in sub-Section (1), the concerned person, organization or agency shall, within thirty five days from the date of import of such wild

fauna or flora or specimen thereof, have to submit an application to the Management Authority having attached copies of the following documents :-

- a) A license issued by the authorized agency of the concerned country for export of such wild fauna or flora or a specimen thereof;
- b) A certificate of origin of such wild fauna or flora or specimen thereof;
- c) A license issued by the Management Authority for import;
- d) A memo substantiating customs clearance;
- e) A certificate of healthiness of specimen of such wild fauna or flora of sample thereof.

(3) Upon conducting necessary inquiry into the application filed pursuant to sub-Section (2), if it is found that such wild fauna or flora or sample has been imported according to this Act or Rules framed hereunder the Management Authority shall register such wild fauna or flora or a specimen and issue a certificate to the concerned person, organization or agency as prescribed.

15. Not to Transfer: (1) No title of the endangered wild fauna or flora or a specimen thereof registered pursuant to Section 13 or 14 shall be disposed off or transferred owner without permission of the Management Authority or the designated authority.

(2) The matters concerning the granting of permission for transfer of title or change of ownership of an endangered species of wild fauna or flora or specimen thereof pursuant to sub-Section (1) shall be as prescribed.

Chapter-4

Provisions concerning Management Authority and

Scientific Authority

16. Management Authority: (1) For the purpose of this Act, the following agencies shall be regarded as the Management Authority:

- a) The Department of National Parks and Wildlife Conservation in regard to wild fauna or specimen thereof;
- b) Department of Forests in regard to wild flora or specimen thereof

(2) Notwithstanding anything contained in sub-Section (1), Government of Nepal may, by a notification published in the Nepal gazette, specify any particular agency as the Management Authority in regard to any particular wild fauna or flora or a specimen thereof.

17. Functions, Duties and Powers of Management Authority: In addition to those referred to elsewhere in this Act, the functions, duties and powers of Management Authority shall be as follows:-

- a) To monitor regularly whether or not export or import of endangered species of wild fauna or flora or a specimen thereof is being carried out under this Act or Rules framed hereunder;
- b) To revoke a license in case a licensee person organization or agency violates this Act or Rules framed hereunder or the conditions referred to in the license;
- c) To conduct studies and researches on the endangered wild fauna or flora and to disseminate or cause to be disseminated information on it;
- d) To prepare periodic report on the policy, institutional and legal measures to be taken for the implementation status of the Convention;
- e) To carry out such other acts as prescribed.

18. Scientific Authority: (1) For the purpose of this Act, the following agencies shall be regarded as the Scientific Authority:-
- a) Natural History Museum, Tribhuvan University in case of wild fauna or specimen thereof;
 - b) Department of Plants Resources in case of wild flora or specimen thereof.
- (2) Notwithstanding anything contained in sub-Section (1), Government of Nepal may, by a notification published in the Nepal gazette, specify any particular agency as the Scientific Authority in case of any particular wild fauna or flora or a specimen thereof.
19. Functions, Duties and Powers of Scientific Authority: In addition to those referred to elsewhere in this Act, the functions, duties and powers of the Scientific Authority shall be as follows:-
- a) To render necessary advices to the Management Authority having conducted regular studies and researches on the existence of the endangered species of wild fauna or flora available with in Nepal and to publish report of such studies and researches as may be necessary;
 - b) To issue a certificate of health soundness of the endangered species of wild fauna or flora;
 - c) To make available advices and opinion to the Management Authority on endangered species of wild fauna or flora as may be necessary;
 - d) To decide on introduction, identity and classification of various types of endangered species of wild fauna or flora;
 - e) To conduct or cause to be conducted publicity on the scientific and technical aspects of endangered species of wild fauna or flora;

- f) To maintain coordination among various agencies related to the Convention for conservation of endangered wild fauna or flora;
- g) To carry on such other acts as prescribed.

Chapter-5

Offences and Punishment

20. Offences deemed to be committed: In case anyone commits any of the following acts, shall be deemed to have committed an offence under this Act:-

- a) Purchasing, selling, possessing, using, rearing, planting, upbringing, captive breeding, transporting, importing or exporting a threatened or vulnerable wild fauna or flora or a sample thereof or cause to do so in contravention of Section 3;
- b) Purchasing, selling, possessing, using, rearing, planting, upbringing, captive breeding, transporting, importing or exporting a protected wild fauna or flora or a specimen thereof or cause to do so in contravention of Section 8;
- c) Failing to register an endangered species of a wild fauna or flora or a specimen thereof pursuant to Section 13 or 14;
- d) Transferring title or changing ownership of an endangered species of a wild fauna or flora or a specimen thereof pursuant to Section 15;
- e) Committing any act in contravention of this Act or Rules framed hereunder, other than those referred to in clauses (a), (b), (c) and (d).

21. Punishment: Whoever commits the following offences shall be liable to the punishment as follows:-

- a) Whoever commits any offence pursuant to clause (a) of Section 20 with regard to a threatened wild fauna or a specimen thereof shall be liable to a punishment with imprisonment from five years to fifteen years or with a fine from five hundred thousand rupees to one million rupees or with both based on the degree of the offence committed and whoever commits the offence with regard to a threatened wild flora or a specimen thereof shall be liable to a punishment with imprisonment from one year to five years or a fine from one hundred thousand rupees to five hundred thousand rupees or the both based on the degree of the offence committed;
- b) Whoever commits any offence pursuant to clause (a) of Section 20 with regard to a vulnerable wild fauna or a specimen thereof shall be liable to a punishment with imprisonment from two years to ten years or with a fine from one hundred thousand rupees to five hundred thousand rupees or with both; and whoever commits the offence with regard to a vulnerable wild flora or a specimen thereof shall be liable to a punishment with imprisonment from six months to one year or with a fine from fifty thousand rupees to one hundred thousand rupees or the both based on with degree of the offence committed;
- c) Whoever commits any offence pursuant to clause (c) of Section 20 with regard to a protected wild fauna or

a specimen thereof shall be liable to a punishment with imprisonment from one year to five years or with a fine from twenty thousand rupees to one hundred thousand rupees or the both; and whoever commits an offence with regard to a protected flora or a specimen thereof shall be liable to a punishment with imprisonment from one month to six months or with a fine from one thousand rupees to fifty thousand rupees or with both based on the degree of the offence committed;

- d) Whoever commits an act in contravention to clauses (c) and (d) of Section 20 shall be liable to a punishment with fine from fifty thousand rupees to one hundred thousand rupees based on the degree of the offence committed;
- e) Whoever commits an act in contravention to clause (e) of Section 20 shall be liable to a punishment with fine from one thousand rupees to twenty five thousand rupees based on the degree of the offence committed;
- f) Whoever assists, abets incites in any manner or attempts to commit of any offence under this Act shall be liable with half of the punishment to which the principal offender is liable.

(2) The accomplice who abets or assists in any manner to commit of any offence under this Act shall be liable with half of the punishment to which the principal offender is liable.

(3) Whoever causes obstruction in the investigation of an offence under this Act shall be liable to a punishment with imprisonment not exceeding three months or with fine of five thousand rupees or with both.

22. To be confiscated: The endangered wild fauna or flora or a specimen thereof or other goods related to an offence under this Act or any material, weapon or transport vehicle used in the commission of such offence shall be confiscated.

Chapter-6

Investigation and Filing of Cases

23. Investigation Officer: (1) The powers to investigate an offence under this Act shall be vested in the concerned warden or an employee of officer rank designated by him or her in case of a national park, reserve, conservation area and buffer zone and the district forests officer or an employee of officer rank designated by him or her in case of a district having the district forests office and an officer rank employee designated by Government of Nepal in case of a district having no district forests office.

(2) Notwithstanding anything contained in sub-Section (1), Government of Nepal may, by a notification published in the Nepal gazette form a joint investigation team for investigation of an offence under this Act or may designate any officer to investigate such an offence.

(3) The investigation officer or team formed pursuant to sub-Section (1) or (2), as the case may be, may exercise the following powers while investigating the offence:-

- a) To arrest the accused person then and there and to take necessary actions;

- b) To conduct or cause to be conducted search at any office, house, building, ware house, transport vehicle, or any other place according to the laws in force in the course of carrying out investigation of an offence under this Act or in collecting evidence ;
- c) To seize the endangered wild fauna or flora or a specimen thereof related to an offence under this Act or any material, weapon or transport vehicle used in the commission of such offence;
- d) To exercise while investigating an offence, necessary powers as in the capacity of an investigation officer according to the laws in force.

(4) The Investigation Officer shall, while carrying out investigation under this Act, have the powers as of a police officer under the law in force, with regard to the investigation functions such as taking statements from the accused persons, preparing the cognizance deeds and so on.

(5) It shall be the duty of the security agencies to extend necessary cooperation in investigation works to be carried out under this Act.

24. Accused Person may be remanded to custody: (1) The investigation officer may in case there are adequate reasons for any person who has been taken actions under this Act to loss or destroy any evidence or to cause any obstruction or hindrance in the investigation, put him or her in custody having issued an arrest warrant according to the law in force specifying therein the reasons there for.

(2) Notwithstanding anything contained in sub-Section (1), in case any accused person has to be keep into custody, such a person shall be kept into custody only after having presented him or her before such authority and having obtained a permission from the authority adjudicating the case within a period of twenty four hours of the arrest.

(3) In case of request for permission to keep in custody pursuant to sub-Section (2), the authority adjudicating the case shall have to consider whether or not the investigation is going on satisfactorily and shall permit to keep one in custody not exceeding thirty days at a time and not exceeding ninety days in total.

25. Filing of a Case: (1) Government of Nepal shall be a plaintiff in the case related to an offence under this Act.

(2) Upon completion of investigation of an offence under this Act, the investigation officer shall have to refer the case file to the concerned government attorney for the opinion whether or not to prosecute the case, if the government attorney decides to prosecute the case, the investigating authority shall file the case.

26. Court to Try the Cases: The concerned District Court shall have the jurisdiction to adjudicate the case under this Act.

Chapter-7

Miscellaneous Provisions

27. Extraordinary Powers of Government of Nepal: (1) Notwithstanding anything contained in sections 3 and 8, Government of Nepal may make available one couple of any endangered species of wild fauna or a specimen thereof or prescribed number or quantity of endangered species of wild flora in one fiscal year to the country which supports in conservation of endangered species of wild fauna or flora or makes available technical cooperation in the efforts of Government of Nepal, in studies and researches in those areas on the request of such a country for the purpose of studies and research and as a token of goodwill of Nepali peoples and Government of Nepal.

(2) Government of Nepal shall obtain through diplomatic medium, the assurances from the concerned country that the wild fauna or flora or

a specimen thereof made available pursuant to sub-Section (1) shall not be used for commercial purposes.

(3) The Ministry of Forests and Soil Conservation shall submit annual report containing details of wild fauna or flora or a specimen thereof made available under sub-Section (1), to the concerned committee of the Federal Parliament within three months from the completion of every fiscal year.

(4) Notwithstanding anything contained elsewhere in this Act, Government of Nepal may retain or use any endangered species of wild fauna or flora or a specimen thereof for the purpose of study, research, observation, experiment, conservation of genetic resource or for conservation education or production of the first generation (F1 generation) through captive breeding in case of a threatened wild fauna or production of seeds or seedlings in artificial manner or plant or rear in case of threatened wild fauna.

28. Non-application when in transit: (1) Notwithstanding anything contained in sections 3, 8, and 10, the provisions of this Act shall not be applicable while a sealed container of consignment containing endangered wild fauna or flora or a specimen thereof is in transit transporting from another country to a third country through the territory of Nepal.

(2) The sealed container of consignment referred to in sub-Section (1) shall be under the surveillance of the Scientific Authority or concerned quarantine officer while moving through Nepal.

29. Not to be deemed to be used for commercial use: Notwithstanding anything contained in the law in force, the sight-seeing or exhibition of any wild fauna or flora or a specimen thereof having charged normal fee as prescribed for touristic, cultural promotion of traditional knowledge, academic, entertainment, sports, research or aesthetic purposes shall not be deemed to be a transaction for commercial purpose.

30. Management of confiscated wild Fauna or Flora or their specimen: (1)

The Management Authority shall have to manage the endangered species of wild fauna or flora or specimen thereof confiscated under this Act due to carrying out of any act in contravention of this Act as follows:-

- a) specimen non-living sample of endangered species of wild fauna or flora to be destroyed;
- b) In case of an endangered species of wild fauna or flora is in living conditions and necessary for conservation, to release it in the natural habitat in Nepal or to plant or to refer to other agency for taking other measures for conservation;
Provided that though it is in living condition, if it is dangerous for conservation or is likely to cause adverse effect to the indigenous endangered species of wild fauna or flora found in Nepal, such wild fauna or flora or specimen thereof shall be destroyed.
- c) To sell by auction according to laws in force of the threatened or protected wild fauna or flora which is not necessary or possible to be conserved;
- d) To make available to any public organization or agency for academic, scientific, studies and research purposes or for religious works having prescribed necessary conditions; or
- e) To manage or cause to be managed in other prescribed manner.

(2) Notwithstanding anything contained in sub-Section (1), Government of Nepal shall ask to the concerned authority to return back to the country of origin the endangered species of wild fauna or flora or a specimen thereof confiscated for the reason of its being imported without

complying with the procedures under this Act from which it was imported to Nepal.

(3) While asking to get it back pursuant to sub-Section (2), in case the concerned country desires to get the wild fauna or flora or specimen thereof back or the authorized agency of the concerned country makes a request to that effect, such wild fauna or flora or a sample thereof may be returned back to the concerned country.

(4) The country getting back the wild fauna or flora or a specimen thereof shall bear the costs incurred for returning back such wild fauna or flora or a specimen thereof.

(5) The concerned country shall have to get the wild fauna or flora or a specimen thereof returned back within a period of ninety days from the date on which a decision is asking made pursuant to sub-Section (3).

(6) While writing to get it back pursuant to sub-Section (2), in case the concerned country does not desire to get the wild fauna or flora or specimen thereof back or even if it desires to get it back but fails to get it back within the period referred to in sub-Section (5), the Management Authority shall have to manage the wild fauna or flora or a specimen thereof pursuant to sub-Section (1).

(7) Before destroying any endangered wild fauna or flora or a specimen thereof pursuant to sub-Section (1), the wild fauna or flora or a specimen thereof shall be referred to the specified laboratory for scientific experiment and in case the report of such a laboratory demonstrator that such wild fauna or flora or a specimen thereof has to be destroyed, it shall be destroyed as prescribed in the presence of representatives from the concerned District Court, District Administration Office and local level.

31. Endangered Fauna or Flora National Coordination Committee: (1) In order to make recommendation on policy, legal and institutional measures to be adopted for conservation and promotion of endangered species of

wild fauna or flora having effectively enforced this Act and the Convention and to extend necessary cooperation and bring coordination in the implementation of this Act, there shall be an Endangered Wild Fauna and Flora National Coordination Committee as follows:-

- (a) Secretary, Ministry of Forests and Soil Conservation -Convener
- (b) Joint Secretary, Ministry of Law, Justice and Parliamentary Affairs -Member
- (c) Director General, Department of Customs -Member
- (d) Director General, Department of National Parks and Wildlife Conservation -Member
- (e) Director General, Department of Forests -Member
- (f) Director General, Department of Plant Resources -Member
- (g) Director General, Department of Postal Services -Member
- (h) Deputy Inspector General of Police, Central Bureau of Investigation, Nepal Police -Member
- (i) Investigation Director, National Investigation Department -Member
- (j) Executive Director, National Forensic Sciences Laboratory -Member
- (k) Chief, Natural Sciences Museum, Tribhuvan University -Member
- (l) AN Official designated by the Committee -Member-Secretary

(2) Experts of the concerned sector may be invited in meeting of the Committee referred to in sub-Section (1) as per necessary.

(3) Procedures concerns meetings of the committee referred to in sub-Section (1) shall be as prescribed.

32. Publication of Names of Wild Fauna and Flora: (1) Government of Nepal shall publish in the Nepal gazette the scientific name, English name, and as far as possible Nepali name, of various species and sub-species of the wild fauna and flora enlisted in Appendix -1, Appendix -2 and Appendix -3 of the Convention for information of public in general.

(2) While publishing names pursuant to sub-Section (1), it shall also be specified in the notice whether or not a particular species of wild fauna or flora are available in Nepal.

33. Records of details to be maintained: The Management Authority shall, for each fiscal year, maintain records of the following details:-

- a) Number, types and dates of licenses issued, registration certificate issued pursuant to sub-Section (1) of Section 6, sub-Section (3) of Section 8, sub-Section (3) of Section 10, sub-Section (2) of Section 13, sub-Section (3) of Section 14; and sub-Section (1) of Section 15;
- b) Names of the persons, organizations, and agencies engaged in export, import, purchase, sale or transportation of endangered species of wild fauna or flora or specimen thereof; and quantity thereof, and to the extent possible, description of size of such wild fauna or flora and details of male or female;
- c) Details of wild fauna or flora or specimen thereof confiscated pursuant to Section 22 or seized pursuant to clause (c) of sub-Section (3) of Section 23;
- d) Details of the endangered wild fauna or flora or specimen thereof made available by The Government

of Nepal to a foreign country pursuant to sub-Section (1) of Section 27;

- e) Details as to management carried out pursuant to sub-Section (1) of Section 30 of the endangered wild fauna or flora or specimen thereof confiscated or seized under this Act;
- f) Details of the endangered wild fauna or flora or specimen thereof taken back by the concerned country pursuant to sub-Section (3) of Section 30.

(2) The Management Authority shall have to publish the details referred to in sub-Section (1) every year as prescribed.

34. Fund may be created: (1) A Fund may be created for conservation, and promotion of endangered wild fauna or flora or specimen thereof or for studies and researches thereon.

(2) The amount to be deposited to the Fund referred to in sub-Section (1), operation and management of the Fund and internal control thereof shall be as prescribed.

(3) The Auditor General shall carry out auditing of the account of the Fund referred to in sub-Section (1).

35. Awards may be granted: (1) The Management Authority may grant an award of up to one hundred thousand rupees to the person who provides information as to commission of an act which may be deemed as an offence under this Act or such as is going to be committed or who assists in investigation or collection of evidences.

(2) The Management Authority may make provide as reward of an amount up to one hundred rupees as an incentive to the person or employee who renders assistance in controlling trade in endangered wild fauna or flora or specimen thereof having made significant contribution in

investigation of the act which is deemed to be an offence under this Act or in collecting evidences.

36. To be according to the laws in force: On the matters specifically referred to in this Act, it shall be according to this Act and on other matters; it shall be according to the Nepal laws in force.
37. Rules may be formed: Government of Nepal may frame necessary Rules for implementation of this Act.
38. Directives may be formulated: (1) Government of Nepal may frame directives subject to this Act and Rules framed under this Act.

(2) Without prejudice to the generality of the powers conferred by sub-Section (1), Government of Nepal may particularly frame directives on the following matters for regulation and control of international trade of endangered species of wild fauna or flora:-

- a) Grant of license for transaction of endangered species of wild fauna or flora or specimen thereof;
- b) Registration of the imported endangered species of wild fauna or flora or specimen thereof;
- c) Retention or possessing of endangered species of wild fauna or flora or specimen thereof;
- d) Management of confiscated endangered species of wild fauna or flora or specimen thereof;
- e) Other necessary matters.

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Corresponding to Baishakh 10, 2074,BS.