



# साइटिस महासन्धि तथा नेपालमा यस सम्बन्धी कानून



नेपाल सरकार  
वन तथा वतावरण मन्त्रालय  
वन तथा भू-संरक्षण विभाग  
बबरमहल, काठमाडौं

चैत्र २०७५



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## Disclaimer (अधिकारत्यागी)

यस पुस्तिकामा प्रस्तुत भएका सङ्कटापन्न वन्यजन्तु तथा वनस्पतिको अन्तर्राष्ट्रिय व्यापार नियन्त्रण ऐन २०७३ (पहिलो संसोधन २०७५ सहित) र यसको अंग्रेजी अनौपचारिक अनुवाद र साइटिस महासन्धि सरोकारवालाहरूलाई जानकारी गराउने उद्देश्यले मात्रै प्रकाशन गरिएको हो ।

कानुनी उपचारका लागि आवश्यक भएमा सङ्कटापन्न वन्यजन्तु तथा वनस्पतिको अन्तर्राष्ट्रिय व्यापार नियन्त्रण ऐन २०७३, कानुनी किताव ब्यवस्था समितिबाट प्रकाशन भए बमोजिम हुने व्यवहारा अनुरोध छ ।

प्रकाशन प्रति: १०००

प्रकाशन मिति: २०७५ चैत्र

अन्तिम पृष्ठ: १. र्सपगन्धा (*Rauwolfia serpentina*)  
२. जटामसी (*Nardostachys jatamansi*)

तस्वरि सौजन्य: १. डा. राजेन्द्र के.सी.  
२. एन्साव नेपाल  
३. खिलेन्द्र गुरुङ

### प्रकाशक

वन तथा भू-संरक्षण विभाग

बबरमहल, काठमाडौं

[www.dofsc.gov.np](http://www.dofsc.gov.np)

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# 1. Convention on International Trade in Endangered Species of Wild Fauna and Flora

Signed at Washington, D.C., on 3 March 1973

Amended at Bonn, on 22 June 1979

Amended at Gaborone, on 30 April 1983

The Contracting States,

Recognizing that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come;

Conscious of the ever-growing value of wild fauna and flora from aesthetic, scientific, cultural, recreational and economic points of view;

Recognizing that peoples and States are and should be the best protectors of their own wild fauna and flora;

Recognizing, in addition, that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

Convinced of the urgency of taking appropriate measures to this end;

*Have agreed as follows:*

## Article I: Definitions

For the purpose of the present Convention, unless the context otherwise requires:

- (a) "Species" means any species, subspecies, or geographically separate population thereof;
- (b) "Specimen" means:
  - (i) any animal or plant, whether alive or dead;
  - (ii) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and
  - (iii) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species;
- (c) "Trade" means export, re-export, import and introduction from the sea;

- (d) “Re-export” means export of any specimen that has previously been imported;
  - (e) “Introduction from the sea” means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;
  - (f) “Scientific Authority” means a national scientific authority designated in accordance with Article IX;
  - (g) “Management Authority” means a national management authority designated in accordance with Article IX;
  - (h) “Party” means a State for which the present Convention has entered into force.
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## **Article II: Fundamental Principles**

1. 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 authorized in exceptional circumstances.
  2. 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 utilization 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.
  3. 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.
  4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.
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### **Article III: Regulation of Trade in Specimens of Species Included in Appendix I**

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
  - (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
  - (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;
  - (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
  - (d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.
3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:
  - (a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;
  - (b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
  - (c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.
4. The re-export of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:
  - (a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;

- (b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
- (c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.

5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;
  - (b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
  - (c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.
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#### **Article IV: Regulation of Trade in Specimens of Species Included in Appendix II**

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
  - (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
  - (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
  - (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

- 3 A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.
- 4 The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.
5. The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:
  - (a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and
  - (b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:
  - (a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and
  - (b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.
- 7, Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

## **Article V: Regulation of Trade in Specimens of Species Included in Appendix III**

1. All trade in specimens of species included in Appendix III shall be in accordance with the
  2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
    - (a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
    - (b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
  3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.
  4. In the case of re-export, a certificate granted by the Management Authority of the State of reexport that the specimen was processed in that State or is being re-exported shall be accepted by the State of import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.
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## **Article VI: Permits and Certificates**

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.
2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.
3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.

4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.
  5. A separate permit or certificate shall be required for each consignment of specimens.
  6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.
  7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes “mark” means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.
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## **Article VII: Exemptions and Other Special Provisions Relating to Trade**

1. The provisions of Articles III, IV and V shall not apply to the transit or transshipment of specimens through or in the territory of a Party while the specimens remain in Customs control.
2. Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.
3. The provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects. This exemption shall not apply where:
  - in the case of specimens of a species included in Appendix I, they
    - (a) were acquired by the owner outside his State of usual residence, and are being imported into that State; or
    - (b) in the case of specimens of species included in Appendix II:
      - (i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

- (ii) they are being imported into the owner's State of usual residence; and
- (iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens;

unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.

4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.
  5. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.
  6. The provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.
  7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:
    - (a) the exporter or importer registers full details of such specimens with that Management Authority;
    - (b) the specimens are in either of the categories specified in paragraph 2 or 5 of this Article; and
    - (c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.
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## Article VIII: Measures to be Taken by the Parties

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:
  - (a) to penalize trade in, or possession of, such specimens, or both; and
  - (b) to provide for the confiscation or return to the State of export of such specimens.
2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.
3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.
4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:
  - (a) the specimen shall be entrusted to a Management Authority of the State of confiscation;
  - (b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and
  - (c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under subparagraph (b) of this paragraph, including the choice of a rescue centre or other place.
5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.

6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:
    - (a) the names and addresses of exporters and importers; and
    - (b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.
  7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:
    - (a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and
    - (b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.
  8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.
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## **Article IX: Management and Scientific Authorities**

1. Each Party shall designate for the purposes of the present Convention:
  - (a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and
  - (b) one or more Scientific Authorities.
2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat.
3. Any changes in the designations or authorizations under the provisions of this Article shall be communicated by the Party concerned to the Secretariat for transmission to all other Parties.
4. Any Management Authority referred to in paragraph 2 of this Article shall, if so requested by the Secretariat or the Management Authority of another Party, communicate to it impression of stamps, seals or other devices used to authenticate permits or certificates.



## **Article X: Trade with States not Party to the Convention**

1. Where export or re-export is to, or import is from, a State not a Party to the present Convention, comparable documentation issued by the competent authorities in that State which substantially conforms with the requirements of the present Convention for permits and certificates may be accepted in lieu thereof by any Party.
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## **Article XI: Conference of the Parties**

1. The secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of the present Convention.
2. Thereafter the Secretariat shall convene regular meetings at least once every two years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.
3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:
  - (a) make such provision as may be necessary to enable the Secretariat to carry out its duties, and adopt financial provisions;
  - (b) consider and adopt amendments to Appendices I and II in accordance with Article XV;
  - (c) review the progress made towards the restoration and conservation of the species included in Appendices I, II and III;
  - (d) receive and consider any reports presented by the Secretariat or by any Party; and
  - (e) where appropriate, make recommendations for improving the effectiveness of the present Convention.
4. At each regular meeting, the Parties may determine the time and venue of the next regular meeting to be held in accordance with the provisions of paragraph 2 of this Article.
5. At any meeting, the Parties may determine and adopt rules of procedure for the meeting.

6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.
7. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least onethird of the Parties present object:
  - (a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and
  - (b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.

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## **Article XII: The Secretariat**

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora.
2. The functions of the Secretariat shall be:
  - (a) to arrange for and service meetings of the Parties;
  - (b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;
  - (c) to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;

- (d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;
  - (e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;
  - (f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices;
  - (g) to prepare annual reports to the Parties on its work and on the implementation of the present Convention and such other reports as meetings of the Parties may request;
  - (h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature;
  - (i) to perform any other function as may be entrusted to it by the Parties.
- 

### **Article XIII: International Measures**

1. When the Secretariat in the light of information received is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.
2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.
3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

## **Article XIV: Effect on Domestic Legislation and International Conventions**

1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:
  - (a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or
  - (b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.
2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.
3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external Customs control and removing Customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.
4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.
5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

6. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.
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## **Article XV: Amendments to Appendices I and II**

1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the Conference of the Parties:
  - (a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of subparagraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.
  - (b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes “Parties present and voting” means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.
  - (c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.
2. The following provisions shall apply in relation to amendments to Appendices I and II between meetings of the Conference of the Parties:
  - (a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.

- (b) For marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties. It shall also consult intergovernmental bodies having a function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring co-ordination with any conservation measures enforced by such bodies. The Secretariat shall communicate the views expressed and data provided by these bodies and its own findings and recommendations to the Parties as soon as possible.
- (c) For species other than marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties, and, as soon as possible thereafter, its own recommendations.
- (d) Any Party may, within 60 days of the date on which the Secretariat communicated its recommendations to the Parties under subparagraph (b) or (c) of this paragraph, transmit to the Secretariat any comments on the proposed amendment together with any relevant scientific data and information.
- (e) The Secretariat shall communicate the replies received together with its own recommendations to the Parties as soon as possible.
- (f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were communicated under the provisions of subparagraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.
- (g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of sub-paragraphs (h), (i) and (j) of this paragraph.
- (h) The Secretariat shall notify the Parties that notification of objection has been received.
- (i) Unless the Secretariat receives the votes for, against or in abstention from at least one-half of the Parties within 60 days of the date of notification under sub-paragraph (h) of this paragraph, the proposed amendment shall be referred to the next meeting of the Conference for further consideration.

- (j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote.
- (k) The Secretariat shall notify all Parties of the result of the vote.
- (l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

- During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or subparagraph (l) of paragraph 2 of this Article any Party may by notification in writing to the Depositary Government make a reservation with respect to the amendment.
3. Until such reservation is withdrawn the Party shall be treated as a State not a Party to the present Convention with respect to trade in the species concerned.

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## **Article XVI: Appendix III and Amendments thereto**

1. Any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of subparagraph (b) of Article I.
2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depositary Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.
3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.

4. Any Party submitting a list under the provisions of paragraph 1 of this Article shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species, together with any interpretations which the Party may deem appropriate or the Secretariat may request. The Party shall, for as long as the species in question is included in Appendix III, submit any amendments of such laws and regulations or any interpretations as they are adopted.
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## **Article XVII: Amendment of the Convention**

1. An extraordinary meeting of the Conference of the Parties shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes “Parties present and voting” means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.
  2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.
  3. An amendment shall enter into force for the Parties which have accepted it 60 days after two-thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.
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## **Article XVIII: Resolution of Disputes**

1. An extraordinary meeting of the Conference of the Parties shall be Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute..



2. If the dispute can not be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.
  3. An amendment shall enter into force for the Parties which have accepted it 60 days after twothirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.
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### **Article XIX: Signature**

The present Convention shall be open for signature at Washington until 30th April 1973 and thereafter at Berne until 31st December 1974.

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### **Article XX: Ratification, Acceptance, Approval**

The present Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Swiss Confederation which shall be the Depositary Government.

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### **Article XXI: Accession**

1. The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government.
2. This Convention shall be open for accession by regional economic integration organizations constituted by sovereign States which have competence in respect of the negotiation, conclusion and implementation of international agreements in matters transferred to them by their Member States and covered by this Convention.

3. In their instruments of accession, such organizations shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary Government of any substantial modification in the extent of their competence. Notifications by regional economic integration organizations concerning their competence with respect to matters governed by this Convention and modifications thereto shall be distributed to the Parties by the Depositary Government.
  4. In matters within their competence, such regional economic integration organizations shall exercise the rights and fulfil the obligations which this Convention attributes to their Member States, which are Parties to the Convention. In such cases the Member States of the organizations shall not be entitled to exercise such rights individually.
  5. In the fields of their competence, regional economic integration organizations shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Convention. Such organizations shall not exercise their right to vote if their Member States exercise theirs, and vice versa.
  6. Any reference to “Party” in the sense used in Article I (h) of this Convention to “State”/”States” or to “State Party”/”State Parties” to the Convention shall be construed as including a reference to any regional economic integration organization having competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.
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## **Article XXII: Entry into Force**

1. The present Convention shall enter into force 90 days after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, with the Depositary Government.
2. For each State which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force 90 days after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

## **Article XXIII: Reservations**

1. The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.
  2. Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:
    - (a) any species included in Appendix I, II or III; or
    - (b) any parts or derivatives specified in relation to a species included in Appendix III.
  3. Until a Party withdraws its reservation entered under the provisions of this Article, it shall be treated as a State not a Party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.
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## **Article XXIV: Denunciation**

Any Party may denounce the present Convention by written notification to the Depositary Government at any time. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

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## **Article XXV: Depositary**

1. The original of the present Convention, in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary Government, which shall transmit certified copies thereof to all States that have signed it or deposited instruments of accession to it.
2. The Depositary Government shall inform all signatory and acceding States and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the present Convention, amendments thereto, entry and withdrawal of reservations and notifications of denunciation.

3. As soon as the present Convention enters into force, a certified copy thereof shall be transmitted by the Depositary Government to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned Plenipotentiaries, being duly authorized to that effect, have signed the present Convention.

Done at Washington this third day of March, One Thousand Nine Hundred and Seventy-three.

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## २. सङ्घट्टापन्न वन्यजन्तु तथा वनस्पतिको अन्तर्राष्ट्रिय व्यापार नियन्त्रण ऐन २०७३ \* सङ्घट्टापन्न वन्यजन्तु तथा वनस्पतिको अन्तर्राष्ट्रिय व्यापार नियन्त्रण (पहिलो संसोधन) ऐन २०७५\* \*

**प्रस्तावना:** नेपाल पक्ष भएको सङ्घट्टापन्न वन्यजन्तु तथा वनस्पतिका प्रजातिको अन्तर्राष्ट्रिय व्यापार सम्बन्धी महासन्धि, १९७३ को कार्यान्वयन गर्न सङ्घट्टापन्न वन्यजन्तु र वनस्पतिका विभिन्न प्रजातिको संरक्षण र त्यसको अन्तर्राष्ट्रिय व्यापारलाई नियमन तथा नियन्त्रण गर्नको लागि आवश्यक कानूनी व्यवस्था गर्न वाञ्छनीय भएकोले, नेपालको संविधानको धारा २९६ को उपधारा (१) बमोजिमको व्यवस्थापिका-संसदले यो ऐन बनाएको छ ।

### परिच्छेद - १

#### प्रारम्भिक

#### १. संक्षिप्त नाम, विस्तार र प्रारम्भ:

- (१) यस ऐनको नाम "सङ्घट्टापन्न वन्यजन्तु तथा वनस्पतिको अन्तर्राष्ट्रिय व्यापार नियन्त्रण ऐन, २०७३" रहेको छ ।
- (२) यो ऐन नेपालभर लागू हुनेछ र नेपाल बाहिर जहाँसुकै रही बसी यस ऐन अन्तर्गत कसूर मानिने काम गर्ने व्यक्तिको हकमा समेत लागू हुनेछ ।
- (३) यो ऐन तुरुन्त प्रारम्भ हुनेछ ।

#### २. परिभाषा:

विषय वा प्रसङ्गले अर्को अर्थ नलागेमा यस ऐनमा,-

- (क) "अनुमतिपत्र" भन्नाले दफा ६ को उपदफा (१) तथा दफा ८ को उपदफा (३) बमोजिम दिइएको अनुमतिपत्र सम्भन्धु पर्छ ।
- (ख) "अनुसन्धान अधिकृत" भन्नाले दफा २३ बमोजिमको अनुसन्धान अधिकृत सम्भन्धु पर्छ ।
- (ग) "तोकिएको" वा "तोकिए बमोजिम" भन्नाले यस ऐन अन्तर्गत बनेको नियममा तोकिएको वा तोकिए बमोजिम सम्भन्धु पर्छ ।
- (घ) "दुर्लभ वन्यजन्तु वा वनस्पति" भन्नाले महासन्धिको अनुसूची-१ मा उल्लिखित वन्यजन्तु वा वनस्पतिको कुनै प्रजाति वा उपप्रजाति सम्भन्धु पर्छ ।
- (ङ) "नमुना" भन्नाले देहायका कुरा सम्भन्धु पर्छ:-

\* सङ्घट्टापन्न वन्यजन्तु तथा वनस्पतिको अन्तर्राष्ट्रिय व्यापार नियन्त्रण ऐन २०७३ राजपत्रमा प्रकाशित मिति २०७४/१/१०

\*\* सङ्घट्टापन्न वन्यजन्तु तथा वनस्पतिको अन्तर्राष्ट्रिय व्यापार नियन्त्रण (पहिलो संसोधन) ऐन २०७५ राजपत्रमा प्रकाशित मिति २०७५/११/१०

- (१) सङ्कटापन्न वन्यजन्तुको जीवित वा मृत शरीर वा त्यस्तो वन्यजन्तुको शरीर को कुनै अङ्ग, अंश, रगत, दाँत, न्याल, हाड, छाला, रौं, सिङ वा कुनै पदार्थ वा त्यस्तो पदार्थको सम्मिश्रणबाट बनेको वा तयार भएको वा प्रयोग भएको कुनै वस्तु, र
- (२) सङ्कटापन्न वनस्पति वा त्यस्तो वनस्पतिको कुनै भाग, टुक्रा, डाठ, हागा, पात, फल, फूल, बिउ, बोक्रा, जरा वा कुनै पदार्थ वा त्यस्तो पदार्थको सम्मिश्रणबाट बनेको वा तयार भएको वा प्रयोग भएको कुनै वस्तु वा "वा सो को सार तत्व" ।
- (च) सङ्कटापन्न वनस्पति वा त्यस्तो वनस्पतिको कुनै भाग, टुक्रा, डाठ, हागा, पात, फल, फूल, बिउ, बोक्रा, जरा वा कुनै पदार्थ वा त्यस्तो पदार्थको सम्मिश्रणबाट बनेको वा तयार भएको वा प्रयोग भएको कुनै वस्तु वा "वा सो को सार तत्व" ।
- (छ) "नियन्त्रित प्रजनन (क्याप्टिभ ब्रिडिङ्ग)" भन्नाले दुर्लभ वन्यजन्तुको परस्थानीय (एक्ससिटु) संरक्षण गरी वंश संरक्षण गर्ने उद्देश्यको लागि प्रजनन गराई त्यस बाट प्रथम पुस्ताको वन्यजन्तु पैदा गर्ने वा दुर्लभ वनस्पतिको परस्थानीय (एक्ससिटु) संरक्षण गरी वंश संरक्षण गर्ने उद्देश्यको लागि रोप्ने, हुर्काउने, बढाउने र त्यसबाट बिउ वा बिरुवा पैदा गर्ने काम सम्भन्नु पर्छ ।
- (ज) "महासन्धि" भन्नाले संयुक्त राज्य अमेरिकाको वासिङ्गटन डि.सी.मा सन् १९७३ को मार्च ३ तारेखका दिन सम्पन्न भएको सङ्कटापन्न वन्यजन्तु तथा वनस्पतिको प्रजातिको अन्तर्राष्ट्रिय व्यापार सम्बन्धी महासन्धि (कन्भेन्सन अन इन्टरनेशनल ट्रेड इन इण्डेन्जर्ड स्पेसिस अफ वाइल्ड फाउना एण्ड फ्लोरा) सम्भन्नु पर्छ ।
- (झ) "लोपोन्मुख वन्यजन्तु वा वनस्पति" भन्नाले महासन्धिको अनुसूची-२ मा उल्लिखित वन्यजन्तु वा वनस्पतिको प्रजाति वा उपप्रजाति सम्भन्नु पर्छ ।
- (ञ) "वैज्ञानिक निकाय" भन्नाले दफा १८ बमोजिमको वैज्ञानिक निकाय सम्भन्नु पर्छ ।
- (ट) "व्यवस्थापन निकाय" भन्नाले दफा १६ बमोजिमको व्यवस्थापन निकाय सम्भन्नु पर्छ ।
- (ठ) "सङ्कटापन्न वन्यजन्तु वा वनस्पति" भन्नाले दुर्लभ वन्यजन्तु वा वनस्पति, लोपोन्मुख वन्यजन्तु वा वनस्पति र संरक्षित वन्यजन्तु वा वनस्पति सम्भन्नु पर्छ ।
- (ड) "संरक्षक" भन्नाले राष्ट्रिय निकुञ्ज, आरक्ष, संरक्षण क्षेत्र वा मध्यवर्ती क्षेत्रको संरक्षण तथा व्यवस्थापनको लागि नेपाल सरकारले खटाएको व्यक्ति सम्भन्नु पर्छ ।
- (ढ) "संरक्षित वन्यजन्तु वा वनस्पति" भन्नाले महासन्धिको अनुसूची-३ मा उल्लिखित वन्यजन्तु वा वनस्पतिको प्रजाति वा उपप्रजाति सम्भन्नु पर्छ ।
- (ण) "संस्था" भन्नाले वन्यजन्तु वा वनस्पति सम्बन्धी कार्य गर्ने उद्देश्यले प्रचलित कानून बमोजिम स्थापना भएको संगठित संस्था सम्भन्नु पर्छ ।

## परिच्छेद - २

### सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको कारोबार सम्बन्धी व्यवस्था

#### ३. दुर्लभ वा लोपोन्मुख वन्यजन्तु वा वनस्पति वा सो को नमुनाको कारोबार वा व्यापार गर्न वा गराउन नहुने:

- (१) कसैले पनि दुर्लभ वा लोपोन्मुख वन्यजन्तु वा वनस्पति वा सो को नमुना खरिद बिक्री गर्न, आफूसग राख्न, प्रयोग गर्न, रोप्न, हुर्काउन, नियन्त्रित प्रजनन गर्न, ओसारपसार गर्न वा निकासी वा पैठारी गर्न वा गराउन हुदैन ।
- (२) उपदफा (१) मा जुनसुकै कुरा लेखिएको भए तापनि दफा ६ बमोजिम अनुमतिपत्र लिई तोकिए बमोजिमको शर्तको अधीनमा रही देहाय बमोजिमको उद्देश्यको लागि दुर्लभ वा लोपोन्मुख वन्यजन्तु वा वनस्पति वा सो को नमुना राख्न, प्रयोग गर्न, नियन्त्रित प्रजनन गर्न, ओसारपसार, निकासी वा पैठारी गर्न सकिनेछ:-
  - (क) वन्यजन्तुको पालनपोषण गर्न,
  - (ख) वनस्पति रोप्न, हुर्काउन,
  - (ग) वन्यजन्तु वा वनस्पति वा सो को नमुना उत्पादन गर्न, स्वदेश वा विदेशमा खरिद बिक्री गर्न,
  - (घ) अध्ययन, अनुसन्धान, परीक्षण, तालीम, प्रदर्शनी, संरक्षण शिक्षा, जैविक स्रोत संरक्षण वा शैक्षिक प्रयोजनमा उपयोग गर्न ।
- (३) उपदफा (१) र (२) मा जुनसुकै कुरा लेखिएको भए तापनि कुनै व्यक्तिले निजी जग्गामा लोपोन्मुख वनस्पति रोप्न, त्यसरी रोपिएको र निजी जग्गामा प्राकृतिक रूपमा उम्रिएको लोपोन्मुख वनस्पति हुर्काउन, सो को नमुना उत्पादन गर्न, राख्न र प्रयोग गर्न सक्नेछ ।

#### ४. अनुमतिपत्र माग गर्नु पर्ने:

दफा ३ को उपदफा (२) बमोजिमको कुनै कार्य गर्न चाहने व्यक्ति, संस्था वा निकायले तोकिए बमोजिमको ढाँचामा व्यवस्थापन निकाय समक्ष अनुमतिपत्र माग गर्नु पर्नेछ ।

#### ५. परामर्श माग गर्नु पर्ने :

- (१) दफा ४ बमोजिम अनुमतिपत्र माग भएमा व्यवस्थापन निकायले सो सम्बन्धमा वैज्ञानिक निकायबाट सिफारिस सहितको परामर्श माग गर्नेछ ।



- (२) उपदफा (१) बमोजिम सिफारिस सहितको परामर्श माग भएमा वैज्ञानिक निकायले सो विषयमा अध्ययन गरी त्यस्तो अनुमतिपत्र दिदा नेपालमा रहेका दुर्लभ वा लोपोन्मुख वन्यजन्तु वा वनस्पतिको प्रजातिको अस्तित्वलाई प्रतिकूल असर नपर्ने कुरामा विश्वस्त भएमा त्यस्तो अनुमतिपत्र दिन व्यवस्थापन निकायलाई सिफारिस गर्नेछ ।
- (३) उपदफा (२) बमोजिम वैज्ञानिक निकायले सिफारिस गर्दा अपनाउने कार्यविधि तोकिए बमोजिम हुनेछ ।

## ६. अनुमतिपत्र दिन सक्ने:

- (१) वैज्ञानिक निकायबाट दफा ५ बमोजिम सिफारिस प्राप्त भएमा र व्यवस्थापन निकाय देहाय बमोजिमको अवस्था विद्यमान भएको कुरामा विश्वस्त भएमा सो निकायले अनुमतिपत्र माग गर्ने व्यक्ति, संस्था वा निकायलाई तोकिए बमोजिमको अनुमतिपत्र दिन सक्नेछ:-
- (क) पैठारी बाहेकको अन्य कार्यको लागि अनुमतिपत्र माग भएकोमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना अनुमतिपत्र माग गर्ने व्यक्ति, संस्था वा निकायको स्वामित्व वा नियन्त्रणमा रहेको देखिएमा,
- (ख) पैठारी बाहेकको अन्य कार्यको लागि अनुमतिपत्र माग भएकोमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना अनुमतिपत्र माग गर्ने व्यक्ति, संस्था वा निकायले प्रचलित कानून बमोजिम प्राप्त गरेको देखिएमा,
- (ग) सम्बन्धित निकायबाट त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुनाको स्वस्थताको प्रमाणपत्र प्राप्त भएको देखिएमा,
- (घ) जीवित वन्यजन्तु भए त्यसलाई ढुवानी गर्न सकिने पर्याप्त र उपयुक्त बन्दोबस्त भएको र ढुवानी गर्दा त्यसलाई घाउ, चोट नलाग्ने, त्यसको स्वास्थ्यमा हानि नोक्सानी वा त्यस उपर निर्मम व्यवहार नहुने कुरामा विश्वास गर्न सकिने आधार भएमा,
- (ङ) जुन मुलुकमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना निकासी गर्न लागिएको हो सो मुलुकको अधिकारप्राप्त निकायले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना पैठारी गर्न दिएको अनुमतिपत्र वा अनुमतिपत्र दिने मनसायपत्र वा जुन मुलुकबाट त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना नेपालमा पैठारी गर्न लागिएको हो सो मुलुकको अधिकार प्राप्त निकायले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना निकासी गर्न दिएको अनुमतिपत्र वा अनुमतिपत्र दिने मनसायपत्र प्राप्त भएको देखिएमा,

- (च) जुन प्रयोजनका लागि नेपालमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना पैठारी गर्न लिएको हो सो प्रयोजनका लागि मात्र प्रयोग हुने र व्यापारिक प्रयोजनका लागि प्रयोग नहुने देखिएमा,
- (छ) जुन मुलुकमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना निकासी गर्न लिएको हो सो मुलुकमा त्यसको प्रयोग व्यापारिक प्रयोजनका लागि नहुने गरी त्यस्तो मुलुकको अधिकारप्राप्त निकायबाट आश्वासनपत्र प्राप्त भएको देखिएमा ।

“(१ क) उपदफा (१) को खण्ड (ड) र (छ) मा जुनसुकै कुरा लेखिएको भए तापनि लोपोन्मुख वनस्पति र वन्यजन्तु वा सोको नमूनाको निकासी गर्दा निकासी हुने मुलुकले दिएको त्यस्तो अनुमति पत्र तथा आश्वासन पत्र आवश्यक पर्ने छैन ।”

- (२) उपदफा (१) बमोजिमको अवस्था रहेको कुरामा विश्वस्त हुनका लागि आवश्यकता अनुसार व्यवस्थापन निकायले कुनै सक्कल कागजात वा प्रतिलिपि माग गर्न सक्नेछ र यसरी माग भए बमोजिमका कागजात सम्बन्धित व्यक्ति, संस्था वा निकायले व्यवस्थापन निकाय समक्ष पेश गर्नु पर्नेछ ।
- (३) उपदफा (१) बमोजिम अनुमतिपत्र दिँदा व्यवस्थापन निकायले अनुमतिपत्रमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुनाको प्रयोग, व्यवस्थापन, पालनपोषण, संरक्षण, बासस्थान, ढुवानी साधन वा मार्ग आदिका आवश्यक शर्तहरू तोक्न सक्नेछ र त्यस्ता शर्तहरू पालना गर्नु सम्बन्धित अनुमतिपत्र प्राप्त व्यक्ति, संस्था वा निकायको कर्तव्य हुनेछ ।
- (४) उपदफा (१) बमोजिम व्यवस्थापन निकायबाट जुन प्रयोजनको लागि अनुमतिपत्र दिएको हो अनुमतिपत्र प्राप्त व्यक्ति, संस्था वा निकायले सोही प्रयोजनका लागि मात्र त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुनाको प्रयोग गर्नु वा गराउनु पर्नेछ ।
- (५) यस दफा बमोजिम प्रदान गरिएको अनुमतिपत्र जुन व्यक्ति, संस्था वा निकायले प्राप्त गरेको हो सोही व्यक्ति, संस्था वा निकायको प्रयोजनका लागि मात्र मान्य हुनेछ र अन्य व्यक्ति, संस्था वा निकायले प्रयोग गर्ने गरी हस्तान्तरण हुन सक्ने छैन ।
- (६) उपदफा (३), (४) वा (५) को प्रतिकूल हुने गरी अनुमतिपत्र प्राप्त व्यक्ति, संस्था वा निकायले कुनै काम गरेमा व्यवस्थापन निकायले तोकिए बमोजिमको कार्यविधि पूरा गरी जुनसुकै बखत अनुमतिपत्र रद्द गर्न सक्नेछ ।
- (७) अनुमतिपत्रको अवधि, नवीकरण, दस्तुर र खारेजी सम्बन्धी व्यवस्था तोकिए बमोजिम हुनेछ ।

## ७. लोपोन्मुख वन्यजन्तु वा वनस्पति वा सो को नमुना मानिने:

यस ऐनमा अन्यत्र जुनसुकै कुरा लेखिएको भए तापनि दफा ६ को उपदफा (१) बमोजिम प्रदान गरिएको अनुमतिपत्र बमोजिम कुनै व्यक्ति, संस्था वा निकायले तोकिए बमोजिम परस्थानीय संरक्षण गरी उत्पादन गरेको देहाय बमोजिमको वन्यजन्तु वा वनस्पति वा सो को नमुनालाई लोपोन्मुख वन्यजन्तु वा वनस्पति वा सो को नमुना मानिनेछ :-

- (क) नियन्त्रित प्रजनन गराई प्रथम पुस्ता (एफ-१ जेनेरेशन) पैदा गर्न अनुमतिपत्र बमोजिम बिउको रूपमा प्रयोग भएको दुर्लभ वन्यजन्तु वा सो को नमुनाबाट उत्पादन गरिएको प्रथम पुस्ता र सोबाट उत्पादन गरिएका वन्यजन्तु तथा सो को नमुना,
- (ख) कृत्रिम रूपमा हुर्काउन वा उत्पादन गर्न अनुमतिपत्र बमोजिम बिउको रूपमा प्रयोग भएको दुर्लभ वनस्पति वा सो को नमुनाबाट हुर्काइएको वा उत्पादन गरिएको वनस्पति तथा सो को नमुना ।

तर त्यस्ता वन्यजन्तु वा वनस्पतिको उत्पादन गर्न बिउको रूपमा प्रयोग भएको अनुमतिपत्र बमोजिमको वन्यजन्तु वा वनस्पति वा सो को नमुनालाई दुर्लभ वन्यजन्तु वा वनस्पति वा सो को नमुना नै मानिनेछ ।

## ८. संरक्षित वन्यजन्तु वा वनस्पतिको नमुनाको कारोबार गर्न सकिने:

- (१) संरक्षित वन्यजन्तुको पालनपोषण गर्न वा संरक्षित वनस्पति रोप्न, हुर्काउन वा त्यस्तो वन्यजन्तु वा वनस्पतिको नमुना आफूसंग राख्न, प्रयोग गर्न, उत्पादन गर्न, बिउको रूपमा व्यापार गर्न, ओसारपसार गर्न वा निकासी वा पैठारी गर्न चाहने व्यक्ति, संस्था वा निकायले अनुमतिपत्र लिनु पर्नेछ ।

“तर कुनै व्यक्तिले निजी जग्गामा संरक्षित वनस्पति रोप्न त्यसरी रोपिएको र निजी जग्गामा प्राकृतिक रूपमा उम्रिएको संरक्षित वनस्पति हुर्काउन, सो को नमूना उत्पादन गर्न, राख्न र प्रयोग गर्न त्यस्तो अनुमति पत्र लिनुपर्ने छैन ।”

- (२) उपदफा (१) बमोजिम अनुमतिपत्र लिन चाहने व्यक्ति, संस्था वा निकायले व्यवस्थापन निकाय समक्ष तोकिए बमोजिम निवेदन दिनु पर्नेछ ।
- (३) उपदफा (२) बमोजिम निवेदन परेमा सो को जाँचबुझ गर्दा देहायका कुरामा विश्वस्त भएमा वैज्ञानिक निकायसग परामर्श गरी व्यवस्थापन निकायले उपदफा (१) बमोजिमको कुनै वा सबै प्रयोजनका लागि तोकिए बमोजिम अनुमतिपत्र दिन सक्नेछ:-

- (क) पैठारी बाहेकको अन्य कार्यको लागि अनुमतिपत्र माग भएकोमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना अनुमतिपत्र माग गर्ने व्यक्ति, संस्था वा निकायको स्वामित्व वा नियन्त्रणमा रहेको देखिएमा,

- (ख) पैठारी बाहेकको अन्य कार्यको लागि अनुमतिपत्र माग भएकोमा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना अनुमतिपत्र माग गर्ने व्यक्ति, संस्था वा निकायले प्रचलित कानून बमोजिम प्राप्त गरेको देखिएमा,
- (ग) जीवित वन्यजन्तु ढुवानी गर्नको लागि पर्याप्त बन्दोबस्त भएको र त्यसलाई ढुवानी गर्दा घाउ, चोट नलाग्ने, हानि नोक्सानी नहुने वा त्यस उपर निर्मम व्यवहार नहुने कुरामा विश्वास गर्ने आधार भएमा
- (४) उपदफा (३) बमोजिम अनुमतिपत्र दिँदा व्यवस्थापन निकायले आवश्यकता अनुसार त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना राख्ने, प्रयोग गर्ने, पालन पोषण गर्ने, रोप्ने, हुर्काउने तथा उत्पादन गर्ने तरिका सम्बन्धमा तथा त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना बिउको रूपमा व्यापार गर्न, ओसारपसार गर्न वा निकासी वा पैठारी गर्नको लागि मार्ग, ढुवानी गर्ने तरिका, बासस्थान र अन्य आवश्यक विषयमा शर्त तोक्न सक्नेछ र त्यस्ता शर्तहरू पालना गर्नु सम्बन्धित अनुमतिपत्र प्राप्त व्यक्ति, संस्था वा निकायको कर्तव्य हुनेछ ।
- (५) उपदफा (४) बमोजिमका शर्तहरू पालना नभएमा व्यवस्थापन निकायले तोकिए बमोजिमको कार्यविधि पूरा गरी जुनसुकै बखत त्यस्तो अनुमतिपत्र रद्द गर्न सक्नेछ ।
- (६) यस दफा बमोजिम दिइएको अनुमतिपत्रको अवधि, नवीकरण, खारेजी, दस्तुर तथा सो को कार्यविधि सम्बन्धी अन्य व्यवस्था तोकिए बमोजिम हुनेछ ।

## ९. उत्पत्तिको प्रमाणपत्र र निकासी अनुमतिपत्र आवश्यक हुने:

दफा ८ मा जुनसुकै कुरा लेखिएको भए तापनि कुनै पनि संरक्षित वन्यजन्तु वा वनस्पतिको नमुना पैठारी गर्दा त्यस्तो वन्यजन्तु वा वनस्पतिको प्रजाति महासन्धिको अनुसूची-३ मा समावेश गर्ने मुलुकले प्रदान गरेको उत्पत्तिको प्रमाणपत्र र निकासी अनुमतिपत्र आवश्यक पर्नेछ ।

## १०. पुनः निकासी सम्बन्धी विशेष व्यवस्था:

- (१) एकपटक नेपालभित्र पैठारी गरिएको सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना यस दफा बमोजिम पुनः निकासीको अनुमतिपत्र प्रदान नभई निकासी हुन सक्ने छैन ।
- (२) उपदफा (१) बमोजिम सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना पुनः निकासी गर्न चाहने व्यक्ति, संस्था वा निकायले व्यवस्थापन निकाय समक्ष निवेदन दिनु पर्नेछ ।

- (३) उपदफा (२) बमोजिम निवेदन परेमा र पुनः निकासी गर्न लागिएको सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना यस ऐन वा प्रचलित कानून बमोजिम नेपालमा पैठारी गरिएको भएमा व्यवस्थापन निकायले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना दफा ६ वा ८ बमोजिमको प्रकृया पुरा गरी पुनः निकासी गर्न अनुमतिपत्र प्रदान गर्न सक्नेछ ।

#### ११. वन्यजन्तु वा वनस्पतिको अस्तित्व उपर जोखिम हुन नहुने:

- (१) दफा ६, ८ र १० मा जुनसुकै कुरा लेखिएको भए तापनि सो बमोजिम अनुमतिपत्र प्रदान गर्दा त्यस्तो वन्यजन्तु वा वनस्पतिको अस्तित्व लोप नहुने वा त्यसको थप खतरा वा जोखिम नहुने र जुन प्रयोजनका लागि अनुमतिपत्र प्रदान भएको हो सो प्रयोजनका लागि मात्र प्रयोग हुने कुरामा सुनिश्चित हुने गरी प्रदान गर्नु पर्नेछ ।
- (२) यस ऐन बमोजिम सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको कारोबार गर्न अनुमतिपत्र प्रदान गरेपछि त्यस्तो अनुमतिपत्र प्राप्त व्यक्ति, संस्था वा निकायले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना के कसरी प्रयोग गरेको छ सो को व्यवस्थापन निकाय वा सो निकायले अख्तियारी दिएको निकायले नियमित अनुगमन वा निगरानी गर्नु पर्नेछ ।
- (३) उपदफा (२) बमोजिम अनुगमन वा निगरानी गर्दा अनुमतिपत्र प्राप्त व्यक्ति वा संस्था वा निकायले अनुमतिपत्रको शर्त प्रतिकूल हुने गरी सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको प्रयोग गरेको पाइएमा अनुगमन वा निगरानी गर्ने निकायले जुनसुकै वखत त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना जफत गर्न वा नियन्त्रणमा लिन सक्नेछ ।
- (४) अनुमतिपत्र प्राप्त व्यक्तिले सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको निकासी गरेको भएमा व्यवस्थापन निकाय वा सो निकायले अख्तियारी दिएको निकायले निकासी गरिएको मुलुकको अधिकारप्राप्त अधिकारीसंग यस दफाको प्रयोजनका लागि नियमित रूपमा तोकिए बमोजिम सम्पर्क गर्नु पर्नेछ ।

#### १२. महासन्धिको पक्ष राष्ट्र हुनु पर्ने:

यस परिच्छेदमा अन्यत्र जुनसुकै कुरा लेखिएको भए तापनि सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना महासन्धिको पक्ष भएको राष्ट्रमा मात्र निकासी गर्न अनुमतिपत्र दिइनेछ ।

## परिच्छेद - ३

### सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको दर्ता सम्बन्धी व्यवस्था

#### १३. सङ्कटापन्न वन्यजन्तु वा वनस्पतिको प्रजाति दर्ता गर्नुपर्ने:

- (१) यो ऐन प्रारम्भ हुँदाका बखत कसैले अनुमतिपत्र लिई वा नलिई कुनै जीवित सङ्कटापन्न वन्यजन्तु वा वनस्पति अध्ययन, अनुसन्धान, परीक्षण, प्रशिक्षण, प्रदर्शन, संरक्षण शिक्षा, जैविक स्रोत संरक्षण, शैक्षिक प्रयोजन वा अन्य कुनै प्रयोजनका लागि राखेको, प्रयोग गरेको वा कुनै सङ्कटापन्न वन्यजन्तुलाई पालनपोषण गरेको वा घर पालुवा बनाई त्यसबाट लाभ प्राप्त गरेको भए यो ऐन प्रारम्भ भएको तोकिएको अवधिभित्र त्यस्तो वन्यजन्तु वा वनस्पति दर्ता गर्न सम्बन्धित व्यक्ति, संस्था वा निकायले व्यवस्थापन निकाय समक्ष तोकिए बमोजिम निवेदन गर्नु पर्नेछ ।
- (२) उपदफा (१) बमोजिम निवेदन परेमा त्यस्तो वन्यजन्तु प्रचलित कानून प्रतिकूल नहुने गरी राखेको वा प्रयोग गरेको कुरामा व्यवस्थापन निकाय विश्वस्त भएमा सो निकायले त्यस्तो वन्यजन्तु तोकिए बमोजिम दर्ता गरी सम्बन्धित व्यक्ति, संस्था वा निकायलाई दर्ता प्रमाणपत्र प्रदान गर्नु पर्नेछ ।
- (३) यस दफा बमोजिमको कार्यविधि पूरा नगरी राखेको वन्यजन्तु तोकिए बमोजिम जफत हुनेछ ।
- (४) यस दफा बमोजिम दिइने दर्ता प्रमाणपत्रको अवधि, नवीकरण, दर्ता शुल्क तथा अन्य व्यवस्था तोकिए बमोजिम हुनेछ ।

#### १४. पैठारी गरिएको सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना दर्ता गर्नु पर्ने:

- (१) यो ऐन वा यस ऐन अन्तर्गत बनेको नियम बमोजिम नेपालमा पैठारी गरिएका सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना तोकिए बमोजिम दर्ता गर्नु पर्नेछ ।
- (२) उपदफा (१) बमोजिमका वन्यजन्तु वा वनस्पति वा सो को नमुना दर्ता गर्नको लागि सम्बन्धित व्यक्ति, संस्था वा निकायले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना पैठारी गरेको पैंतीस दिनभित्र देहायका कागजात संलग्न गरी व्यवस्थापन निकाय समक्ष निवेदन दिनु पर्नेछ :-

- (क) त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना निकासी गर्न सम्बन्धित मुलुकको अधिकार प्राप्त निकायले दिएको अनुमतिपत्र,
  - (ख) त्यस्तो वन्यजन्तु वा वनस्पतिको नमुनाको उत्पतिको प्रमाणपत्र,
  - (ग) व्यवस्थापन निकायले पैठारी गर्न दिएको अनुमतिपत्र,
  - (घ) भन्सार महसुल चुक्ता गरेको निस्सा,
  - (ङ) त्यस्तो वन्यजन्तु वा वनस्पतिको नमुनाको स्वस्थताको प्रमाणपत्र ।
- (३) उपदफा (२) बमोजिम परेको निवेदनका सम्बन्धमा आवश्यक जाँचबुझ गरी त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना यो ऐन वा यस ऐन अन्तर्गत बनेको नियम बमोजिम पैठारी गरिएको देखिएमा व्यवस्थापन निकायले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना दर्ता गरी सम्बन्धित व्यक्ति, संस्था वा निकायलाई तोकिए बमोजिम दर्ता प्रमाणपत्र दिनेछ ।

#### १५. हस्तान्तरण गर्न नहुने:

- (१) दफा १३ वा १४ बमोजिम दर्ता भएका कुनै पनि सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना व्यवस्थापन निकाय वा तोकिए बमोजिमको अधिकारीको अनुमति बिना हक हस्तान्तरण वा नामसारी हुने छैन ।
- (२) उपदफा (१) बमोजिम सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको हक हस्तान्तरण वा नामसारी गर्न अनुमति प्रदान गर्ने सम्बन्धी व्यवस्था तोकिए बमोजिम हुनेछ ।

## परिच्छेद - ४

### व्यवस्थापन निकाय तथा वैज्ञानिक निकाय सम्बन्धी व्यवस्था

#### १६. व्यवस्थापन निकायः

- (१) यस ऐनको प्रयोजनको लागि देहायका निकायलाई व्यवस्थापन निकाय मानिनेछः-
- (क) वन्यजन्तु वा सो को नमुनाको सम्बन्धमा राष्ट्रिय निकुञ्ज तथा वन्यजन्तु संरक्षण विभाग,
- (ख) वनस्पति वा सो को नमुनाको सम्बन्धमा वन तथा भू-संरक्षण विभाग ।
- (२) उपदफा (१) मा जुनसुकै कुरा लेखिएको भए तापनि नेपाल सरकारले नेपाल राजपत्रमा सूचना प्रकाशन गरी कुनै खास वन्यजन्तु वा वनस्पति वा सो को नमुनाको सम्बन्धमा कुनै खास निकायलाई व्यवस्थापन निकायको रूपमा तोक्न सक्नेछ ।

#### १७. व्यवस्थापन निकायको काम, कर्तव्य र अधिकारः

यस ऐनमा अन्यत्र उल्लिखित काम, कर्तव्य र अधिकारको अतिरिक्त व्यवस्थापन निकायको काम, कर्तव्य र अधिकार देहाय बमोजिम हुनेछः-

- (क) यो ऐन वा यस ऐन अन्तर्गत बनेको नियम बमोजिम सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना निकासी वा पैठारी भए वा नभएको सम्बन्धमा नियमित रूपमा अनुगमन गर्ने,
- (ख) अनुमतिपत्र प्राप्त व्यक्ति वा संस्था वा निकायले यो ऐन वा यस ऐन अन्तर्गत बनेको नियम वा अनुमतिपत्रमा उल्लिखित शर्त उल्लङ्घन गरेमा अनुमतिपत्र रद्द गर्ने,
- (ग) सङ्कटापन्न वन्यजन्तु वा वनस्पतिको सम्बन्धमा अध्ययन अनुसन्धान तथा प्रचार प्रसार गर्ने वा गराउने,
- (घ) महासन्धिको कार्यान्वयनको स्थितिका सम्बन्धमा गर्नु पर्ने नीतिगत, संस्थागत र कानूनी उपायका सम्बन्धमा नेपाल सरकारको तर्फबाट आवधिक प्रतिवेदन तयार गर्ने,
- (ङ) महासन्धि कार्यान्वयन सम्बन्धमा अन्य आवश्यक व्यवस्था गर्ने, र
- (च) तोकिए बमोजिमका अन्य कार्य गर्ने ।



## १८. वैज्ञानिक निकायः

- (१) यस ऐनको प्रयोजनको लागि देहायका निकायलाई वैज्ञानिक निकाय मानिनेछः-
- (क) वन्यजन्तु वा सो को नमुनाको सम्बन्धमा प्राकृतिक विज्ञान सङ्ग्रहालय, त्रिभुवन विश्वविद्यालय,
- (ख) वनस्पति वा सो को नमुनाको सम्बन्धमा वनस्पति विभाग ।
- (२) उपदफा (१) मा जुनसुकै कुरा लेखिएको भए तापनि नेपाल सरकारले नेपाल राजपत्रमा सूचना प्रकाशन गरी कुनै खास वन्यजन्तु वा वनस्पति वा सो को नमुनाको सम्बन्धमा कुनै खास निकायलाई वैज्ञानिक निकायको रूपमा तोक्न सक्नेछ ।

## १९. वैज्ञानिक निकायको काम, कर्तव्य र अधिकारः

यस ऐनमा अन्यत्र उल्लिखित काम, कर्तव्य र अधिकारको अतिरिक्त वैज्ञानिक निकायको काम, कर्तव्य र अधिकार देहाय बमोजिम हुनेछः-

- (क) नेपाल सरहदभित्र पाइने सङ्कटापन्न वन्यजन्तु वा वनस्पतिको अस्तित्वको अवस्था बारेमा नियमित रूपमा अध्ययन अनुसन्धान गरी व्यवस्थापन निकायलाई आवश्यक परामर्श प्रदान गर्ने र त्यस्तो अध्ययन अनुसन्धानको सम्बन्धमा आवश्यकता अनुसार प्रतिवेदन प्रकाशन गर्ने,
- (ख) सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको स्वस्थताको प्रमाणपत्र जारी गर्ने,
- (ग) सङ्कटापन्न वन्यजन्तु वा वनस्पतिका प्रजातिहरूबारे व्यवस्थापन निकायलाई आवश्यकता अनुसार सल्लाह वा परामर्श उपलब्ध गराउने,
- (घ) विभिन्न प्रजातिका सङ्कटापन्न वन्यजन्तु वा वनस्पतिको परिचय, पहिचान र वर्गिकरणबारे निर्णय गर्ने,
- (ङ) महासन्धिमा सूचीकृत सङ्कटापन्न वन्यजन्तु वा वनस्पतिका प्रजातिहरूको वैज्ञानिक तथा प्राविधिक विषयमा प्रचार प्रसार गर्ने वा गराउने,
- (च) सङ्कटापन्न वन्यजन्तु वा वनस्पतिको संरक्षणका लागि महासन्धिसँग सम्बन्धित विभिन्न निकाय बीच समन्वय गर्ने, र
- (छ) तोकिए बमोजिमका अन्य कार्य गर्ने ।

## परिच्छेद - ५

### कसूर र सजाय

#### २०. कसूर गरेको मानिने:

कसैले देहायको कुनै काम गरेमा यस ऐन बमोजिमको कसूर गरेको मानिनेछ:-

- (क) दफा ३ विपरित दुर्लभ वा लोपोन्मुख वन्यजन्तु वा वनस्पति वा सो को नमुना खरीद बिक्री गर्ने, आफूसंग राख्ने, प्रयोग गर्ने, पालनपोषण गर्ने, रोप्ने, हुर्काउने, नियन्त्रित प्रजनन गर्ने, ओसारपसार गर्ने, निकासी वा पैठारी गर्ने कार्य गरे वा गराएमा,
- (ख) दफा ८ विपरित संरक्षित वन्यजन्तु वा वनस्पति वा सो को नमुनाको खरीद बिक्री गर्ने, आफूसंग राख्ने, प्रयोग गर्ने, पालनपोषण गर्ने, रोप्ने, हुर्काउने, ओसारपसार गर्ने, निकासी वा पैठारी गर्ने कार्य गरे वा गराएमा,
- (ग) दफा १३ वा १४ बमोजिम सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना दर्ता नगरेमा,
- (घ) दफा १५ बमोजिम अनुमति नलिई सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना हक हस्तान्तरण वा नामसारी गराएमा, वा
- (ङ) खण्ड (क), (ख), (ग) र (घ) मा लेखिए देखि बाहेक यस ऐन वा यस ऐन अन्तर्गत बनेको नियम विपरित कुनै कार्य गरेमा ।

#### २१. सजाय:

(१) देहायको कसूर गर्ने व्यक्तिलाई देहाय बमोजिम सजाय हुनेछ:

- (क) दफा २० को खण्ड (क) बमोजिम दुर्लभ वन्यजन्तु वा सो को नमुना सम्बन्धी कसूर गर्नेलाई कसूरको मात्रा अनुसार पाँच वर्षदेखि पन्ध्र वर्षसम्म कैद वा पाँचलाख रुपैयाँदेखि दशलाख रुपैयाँसम्म जरिवाना वा दुबै र दुर्लभ वनस्पति वा सो को नमुना सम्बन्धी कसूर गर्नेलाई कसूरको मात्रा अनुसार एक वर्षदेखि पाँचवर्षसम्म कैद वा एकलाख रुपैयाँदेखि पाँचलाख रुपैयाँसम्म जरिवाना वा दुबै ।
- (ख) दफा २० को खण्ड (क) बमोजिम लोपोन्मुख वन्यजन्तु वा सो को नमुना सम्बन्धी कसूर गर्नेलाई कसूरको मात्रा अनुसार दुई वर्षदेखि दश वर्षसम्म कैद वा एकलाख रुपैयाँदेखि पाँचलाख रुपैयाँसम्म जरिवाना वा दुबै र लोपोन्मुख वनस्पति वा सो को नमुना सम्बन्धी कसूर गर्नेलाई छ महिना

देखि एक वर्षसम्म कैद वा पचासहजार रूपैयाँदेखि एकलाख रूपैयाँसम्म जरिबानावा दुबै ।

(ग) दफा २० को खण्ड (ख) बमोजिम संरक्षित वन्यजन्तु वा सो को नमुना सम्बन्धी कसूर गर्नेलाई एक वर्ष देखि पाँचवर्षसम्म कैद वा बीसहजार रूपैयाँदेखि एकलाख रूपैयाँसम्म जरिबाना वा दुबै र संरक्षित वनस्पति वा सो का नमुना सम्बन्धी कसूर गर्नेलाई कसूरको मात्रा अनुसार एक महिनादेखि छ महिनासम्म कैद वा एकहजार रूपैयाँदेखि पचासहजार रूपैयाँसम्म जरिबाना वा दुबै ।

(घ) दफा २० को खण्ड (ग) र (घ) विपरित कार्य गर्नेलाई कसूरको मात्रा अनुसार पचासहजार रूपैयाँदेखि एकलाख रूपैयाँसम्म जरिबाना ।

(ङ) दफा २० को खण्ड (ङ) बमोजिमको कुनै कार्य गर्नेलाई कसूरको मात्रा अनुसार एकहजार रूपैयाँदेखि पच्चीसहजार रूपैयाँसम्म जरिबाना ।

(च) यस ऐन बमोजिमको कुनै कसूर गर्न मद्दत गर्ने, दुरुत्साहन गर्ने, उक्साउने वा त्यस्तो कार्य गर्न उद्योग गर्ने व्यक्तिलाई मुख्य कसूरदारलाई हुने सजायको आधा सजाय हुनेछ ।

(२) यस ऐन बमोजिम कसूर ठहरिने कुनै कार्य गर्ने व्यक्तिलाई मद्दत गर्ने वा कुनै किसिमले सहयोग पुऱ्याउने मतियारलाई मुख्य कसूरदारलाई हुने सजायको आधा सजाय हुनेछ ।

(३) यस ऐन अन्तर्गतको कसूरको अनुसन्धान सम्बन्धी कार्यमा बाधा विरोध गर्नेलाई तीन महिनासम्म कैद वा पाँचहजार रूपैयाँसम्म जरिबाना वा दुबै सजाय हुनेछ ।

## २२. जफत हुने:

यस ऐन अन्तर्गतको कसूरसंग सम्बन्धित सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना तथा त्यस्तो कसूरमा प्रयोग भएका अन्य वस्तु, सामग्री, हातहतियार तथा सवारी साधन समेत जफत हुनेछ ।

**परिच्छेद - ६**  
**मुद्दाको अनुसन्धान तथा दायरी**

**२३. अनुसन्धान अधिकृतः**

- (१) यस ऐन अन्तर्गतको कसूरको अनुसन्धान गर्ने अधिकार राष्ट्रिय निकुञ्ज, आरक्ष, संरक्षण क्षेत्र र मध्यवर्ती क्षेत्रको हकमा सम्बन्धित संरक्षक वा निजले तोकेको अधिकृतस्तरको कर्मचारी र अन्य क्षेत्रको हकमा जिल्ला वन कार्यालय रहेको जिल्लामा जिल्ला वन अधिकृत वा निजले तोकेको अधिकृतस्तरको कर्मचारी तथा जिल्ला वन कार्यालय नरहेको जिल्लामा नेपाल सरकारले तोकेको अधिकृतस्तरको कर्मचारीलाई हुनेछ ।
- (२) उपदफा (१) मा जुनसुकै कुरा लेखिएको भए तापनि नेपाल सरकारले नेपाल राजपत्रमा सूचना प्रकाशन गरी यस ऐन अन्तर्गतको कसूरको अनुसन्धानको लागि संयुक्त अनुसन्धान टोली गठन गर्न वा नेपाल सरकारको कुनै अधिकृतलाई तोक्न सक्नेछ ।
- (३) उपदफा (१) वा (२) बमोजिमको अनुसन्धान अधिकृत वा टोलीले कसूरको अनुसन्धान गर्दा देहाय बमोजिमको अधिकार प्रयोग गर्न सक्नेछः-
  - (क) कसूरदारलाई तत्काल गिरफ्तार गरी आवश्यक कारबाही गर्ने,
  - (ख) यस ऐन अन्तर्गतको कसूरमा अनुसन्धान गर्दा वा सबुद प्रमाण सङ्कलन गर्दा प्रचलित कानून बमोजिम जुनसुकै कार्यालय, घर, भवन, गोदाम, सवारी साधन वा अन्य कुनै स्थानको खानतलासी लिने वा लिन लगाउने,
  - (ग) कसूरसँग सम्बन्धित सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना तथा त्यस्तो कसूरमा प्रयोग भएका अन्य वस्तु, सामग्री, हातहतियार, सवारी साधन तथा दशी प्रमाण प्राप्त भएमा बरामद गर्ने,
  - (घ) कसूरको अनुसन्धान गर्दा प्रचलित कानून बमोजिम अनुसन्धान अधिकृतको हैसियतमा आवश्यक अधिकार प्रयोग गर्ने ।
- (४) अनुसन्धान अधिकृतलाई यस ऐन अन्तर्गतको कसूरमा अनुसन्धान गर्दा अभियुक्तलाई बयान गराउने, सरजमीन मुचुल्का तयार गर्ने समेतका अनुसन्धान कार्यको सम्बन्धमा प्रचलित कानून बमोजिम प्रहरी अधिकृतलाई भए सरहको अधिकार हुनेछ ।
- (५) यस ऐन अन्तर्गतको कसूरको अनुसन्धान तथा तहकिकातको कार्यमा आवश्यक सहयोग गर्नु सुरक्षा निकायको कर्तव्य हुनेछ ।

## २४. अभियुक्तलाई थुनामा राख्न सकिने:

- (१) यस ऐन अन्तर्गत कारबाही चलाइएको कुनै व्यक्तिले कुनै प्रमाण लोप वा नाश गर्न सक्ने वा अनुसन्धानमा बाधा, व्यवधान वा प्रतिकूल प्रभाव पार्न सक्ने पर्याप्त कारण भएमा अनुसन्धान अधिकृतले कारण खुलाई निजलाई प्रचलित कानून बमोजिम थुनुवा पूर्जा दिई थुनामा राख्न सक्नेछ ।
- (२) उपदफा (१) मा जुनसुकै कुरा लेखिएको भए तापनि कुनै आरोपित व्यक्तिलाई थुनामा राख्नु परेमा बाटाको म्याद बाहेक पत्राउ गरेको चौबीस घण्टाभित्र मुद्दा हेर्ने अधिकारी समक्ष उपस्थित गराई निजको अनुमति लिएर मात्र थुनामा राख्नु पर्नेछ ।
- (३) उपदफा (२) बमोजिम थुनामा राख्ने अनुमति माग गरेकोमा मुद्दा हेर्ने अधिकारीले अनुसन्धान सन्तोषजनक भए वा नभएको विचार गरी एकपटकमा तीस दिनमा नबढ्ने गरी बढीमा नबढ्ने दिनसम्म थुनामा राख्ने अनुमति दिन सक्नेछ ।

## २५. मुद्दाको दायरी:

- (१) यस ऐन अन्तर्गतको कसूर सम्बन्धी मुद्दा नेपाल सरकार वादी हुनेछ ।
- (२) यस ऐन अन्तर्गतको कसूरको अनुसन्धान सम्पन्न भएपछि अनुसन्धान अधिकृतले मुद्दा चल्ने वा नचल्ने निर्णयको लागि सम्बन्धित सरकारी वकील समक्ष पठाउनु पर्नेछ र सरकारी वकीलबाट मुद्दा चल्ने निर्णय भएमा अनुसन्धान अधिकृतले मुद्दा दायर गर्नु पर्नेछ ।

## २६. मुद्दा हेर्ने अदालत:

यस ऐन अन्तर्गतको कसूर सम्बन्धी मुद्दा हेर्ने अधिकार सम्बन्धित जिल्ला अदालतलाई हुनेछ ।

## परिच्छेद - ७

### विविध

#### २७. नेपाल सरकारको विशेष अधिकार:

- (१) दफा ३ र ८ मा जुनसुकै कुरा लेखिएको भए तापनि सङ्कटापन्न वन्यजन्तु वा वनस्पतिको संरक्षणमा नेपाल सरकारको प्रयासलाई सहयोग पुऱ्याउने वा सो प्रयोजनको लागि अध्ययन वा अनुसन्धानलाई उपलब्धिमूलक बनाउन प्राविधिक सहयोग पुऱ्याउने कुनै मुलुकको अनुरोधमा अध्ययन, संरक्षण शिक्षा वा अनुसन्धानको प्रयोजनका लागि नेपाल सरकारले एक आर्थिक वर्षमा एक जोडीसम्म कुनै प्रजातिको सङ्कटापन्न वन्यजन्तु वासो को कुनै नमुना वा तोकिए बमोजिमको सङ्ख्या वा परिमाणमा कुनै सङ्कटापन्न वनस्पति वा सो को नमुना नेपाली जनता र नेपाल सरकारको सद्भावनाको प्रतीकको रूपमा उपहार स्वरूप त्यस्तो मुलुकलाई उपलब्ध गराउन सक्नेछ ।
- (२) उपदफा (१) बमोजिम उपलब्ध गराएको वन्यजन्तु वा वनस्पति वा सो को नमुना व्यापारिक प्रयोजनका लागि प्रयोग नगरिने आश्वासन सम्बन्धित मुलुकबाट त्यसरी उपलब्ध गराउनु अधि नै नेपाल सरकारले कुटनैतिक माध्यमबाट प्राप्त गर्नुपर्नेछ ।
- (३) उपदफा (१) बमोजिम वन्यजन्तु वा वनस्पति वा सो को नमूना उपलब्ध गराएको वार्षिक विवरण वन तथा वातावरण मन्त्रालयले प्रत्येक आर्थिक वर्ष समाप्त भएको तीन महिनाभित्र सङ्घीय संसदको सम्बन्धित समिति समक्ष पेश गर्नु पर्नेछ ।
- (४) यस ऐनमा अन्यत्र जुनसुकै कुरा लेखिएको भए तापनि नेपाल सरकारले कुनै पनि सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना अध्ययन, अनुसन्धान, अवलोकन, पर्यवेक्षण, परीक्षण, जैविक स्रोत संरक्षण वा संरक्षण शिक्षाको प्रयोजनका लागि राख्न, प्रयोग गर्न वा दुर्लभ वन्यजन्तु भए नियन्त्रित प्रजनन गराई पहिलो पुस्ता पैदा गर्न र दुर्लभ वनस्पति भए कृत्रिम रूपमा बिउ र बेर्ना उत्पादन गर्न, रोप्न वा हुर्काउन सक्नेछ ।

#### २८. पारवहनमा रहेको अवस्थामा लागू नहुने:

- (१) दफा ३, ८ र १० मा जुनसुकै कुरा लेखिएको भए तापनि सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको शिलबन्द बाकस (कन्साइन्टमेन्ट) अर्को मुलुकबाट नेपालको इलाकामा पारवहन भई तेस्रो मुलुकमा ढुवानी गर्दा यस ऐनको व्यवस्था लागू हुने छैन ।

- (२) उपदफा (१) बमोजिमको शिलबन्द बाकस नेपालमा रहँदाको अवधिमा वैज्ञानिक निकाय वा सम्बन्धित क्वारेन्टाइन अधिकारीको निगरानीमा रहनेछ ।

## २९. व्यापारिक प्रयोजनको लागि कारोबार भएको नमानिने:

प्रचलित कानूनमा जुनसुकै कुरा लेखिएको भए तापनि पर्यटकीय, सांस्कृतिक, परम्परागत ज्ञानको प्रवर्द्धन, शैक्षिक, मनोरञ्जनात्मक, खेलकुद, अनुसन्धानात्मक, सौन्दर्यपरक प्रयोजनका लागि तोकिए बमोजिमको दरमा नबढाई सामान्य शुल्क लिई कुनै सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको दृश्यावलोकन वा प्रदर्शनी गराउने कामलाई व्यापारिक प्रयोजनका लागि भएको कारोबार मानिने छैन ।

## ३०. जफत भएका वन्यजन्तु वा वनस्पति वा सो को नमुनाको व्यवस्थापन:

- (१) यस ऐनको प्रतिकूल हुने गरी कुनै काम कारवाही भएको कारणले यस ऐन बमोजिम जफत भएका सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना व्यवस्थापन निकायले देहाय बमोजिम व्यवस्थापन गर्नु पर्नेछ :-

(क) जीवित नरहेको सङ्कटापन्न वन्यजन्तु वा वनस्पतिको नमुना नष्ट गर्ने,

(ख) सङ्कटापन्न वन्यजन्तु वा वनस्पति जीवित नै रहेको भएमा र संरक्षण गर्न आवश्यक देखिएमा नेपालभित्रको प्राकृतिक बासस्थानमा छोड्न वा रोप्न वा सार्न वा संरक्षणको लागि अन्य आवश्यक उपाय अपनाउन सम्बन्धित निकायमा पठाउने,

तर जीवित नै रहेको भए तापनि संरक्षण गर्न हानिकारक हुने वा नेपालका रैथाने सङ्कटापन्न वन्यजन्तु वा वनस्पतिलाई प्रतिकूल प्रभाव पुऱ्याउने वन्यजन्तु वा वनस्पति वा सो को नमुना नष्ट गर्नु पर्नेछ ।

(ग) संरक्षण गर्न आवश्यक नदेखिएको वा संरक्षण गर्न सम्भव नभएको लोपोन्मुख वा संरक्षित वन्यजन्तु वा वनस्पति वा सो को नमुना प्रचलित कानून बमोजिम लिलाम गर्ने,

(घ) आवश्यक शर्त तोक्यो शैक्षिक, वैज्ञानिक, अध्ययन, अनुसन्धानको प्रयोजनका लागि वा धार्मिक कार्यका लागि सार्वजनिक संस्था वा निकायलाई उपलब्ध गराउने,वा

(ङ) तोकिए बमोजिम अन्य तरिकाले व्यवस्थापन गर्ने वा गराउने ।

- (२) उपदफा (१) मा जुनसुकै कुरा लेखिएको भए तापनि यस ऐन बमोजिमको कार्यविधि पूरा नभई पैठारी भएको कारणले जफत भएको सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना जुन मुलुकबाट पैठारी भएको हो सोही मुलुकमा फिर्ता पठाउन सम्बन्धित अधिकारीलाई नेपाल सरकारले लेखी पठाउनेछ ।

- (३) उपदफा (२) बमोजिम लेखी पठाउँदा सम्बन्धित मुलुकले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना फिर्ता लैजान चाहेमा वा त्यस्तो मुलुकको अधिकार प्राप्त निकायले अनुरोध गरेमा नेपाल सरकारको निर्णयबाट त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना सम्बन्धित मुलुकलाई फिर्ता दिन सकिनेछ ।
- (४) उपदफा (३) बमोजिम सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना फिर्ता गर्दा लाग्ने खर्च त्यसरी फिर्ता लैजाने मुलुकले व्यहोर्नु पर्नेछ ।
- (५) उपदफा (३) बमोजिम निर्णय भएको मितिले नब्बे दिनभित्र सम्बन्धित मुलुकले त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना फिर्ता लैजानु पर्नेछ ।
- (६) उपदफा (२) बमोजिम लेखी पठाउँदा सम्बन्धित मुलुकले फिर्ता लैजान इच्छा व्यक्त नगरेमा वा इच्छा व्यक्त गरे तापनि उपदफा (५) बमोजिमको अवधिभित्र फिर्ता लैजान नसकेमा त्यस्ता वन्यजन्तु वा वनस्पति वा सो को नमुना व्यवस्थापन निकायले उपदफा (९) बमोजिम व्यवस्थापन गर्नु पर्नेछ ।
- (७) उपदफा (९) बमोजिम कुनै सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना नष्ट गर्नु अघि त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुनालाई वैज्ञानिक परीक्षणका लागि तोकिए बमोजिमको प्रयोगशालामा पठाउनु पर्नेछ र सो प्रयोगशालाको प्रतिवेदनबाट त्यस्तो वन्यजन्तु वा वनस्पति वा सो को नमुना नष्ट गर्नु पर्ने देखिएमा सम्बन्धित जिल्ला अदालत, जिल्ला प्रशासन कार्यालय र स्थानीय तहका प्रतिनिधिको रोहवरमा तोकिए बमोजिम नष्ट गर्नुपर्नेछ ।

### ३९. सङ्कटापन्न वन्यजन्तु तथा वनस्पति राष्ट्रिय समन्वय समिति:

(९) यो ऐन तथा महासन्धिको प्रभावकारी कार्यान्वयन गर्नको लागि सङ्कटापन्न वन्यजन्तु वा वनस्पतिको प्रजातिको संरक्षण र संवर्धन गर्न अपनाउनु पर्ने नीतिगत, कानूनी र संस्थागत उपायका सम्बन्धमा नेपाल सरकारलाई सिफारिस गर्न र यस ऐनको कार्यान्वयनमा आवश्यक सहयोग र समन्वय गर्न देहाय बमोजिमको एक सङ्कटापन्न वन्यजन्तु तथा वनस्पति राष्ट्रिय समन्वय समिति रहनेछ :-

- (क) सचिव, वन तथा वातावरण मन्त्रालय - संयोजक
- (ख) सहसचिव, कानून, न्याय, तथा संसदीय मामिला मन्त्रालय - सदस्य
- (ग) महानिर्देशक, भन्सार विभाग - सदस्य
- (घ) महानिर्देशक, राष्ट्रिय निकुञ्ज तथा वन्यजन्तु संरक्षण विभाग - सदस्य
- (ङ) महानिर्देशक, वन तथा भू-संरक्षण विभाग - सदस्य
- (च) महानिर्देशक, वनस्पति विभाग - सदस्य
- (छ) महानिर्देशक, हुलाक सेवा विभाग - सदस्य



- (ज) प्रहरी नायव महानिरीक्षक, केन्द्रीय अनुसन्धान ब्यूरो, नेपाल प्रहरी - सदस्य
  - (झ) अनुसन्धान निर्देशक, राष्ट्रिय अनुसन्धान विभाग - सदस्य
  - (ञ) कार्यकारी निर्देशक, राष्ट्रिय विधि विज्ञान प्रयोगशाला - सदस्य
  - (ट) प्रमुख, प्राकृतिक विज्ञान सङ्ग्रहालय, त्रिभुवन विश्वविद्यालय - सदस्य
  - (ठ) समितिले तोकेको पदाधिकारी - सदस्य-सचिव
- (२) उपदफा (१) बमोजिमको समितिको बैठकमा आवश्यकता अनुसार सम्बन्धित क्षेत्रको विज्ञलाई आमन्त्रण गर्न सकिनेछ ।
- (३) उपदफा (१) बमोजिमको समितिको बैठक सम्बन्धी कार्यविधि तोकिए बमोजिम हुनेछ ।

### ३२. वन्यजन्तु र वनस्पतिको नाम प्रकाशन गर्ने:

- (१) नेपाल सरकारले महासन्धिको अनुसूची-१, अनुसूची-२ र अनुसूची-३ मा उल्लिखित वन्यजन्तु तथा वनस्पतिको विभिन्न प्रजाति वा उपप्रजातिको वैज्ञानिक नाम, अङ्ग्रेजी नाम तथा सम्भव भएसम्म नेपाली नाम सर्वसाधारणको जानकारीको लागि नेपाल राजपत्रमा प्रकाशन गर्नेछ ।
- (२) उपदफा (१) बमोजिम नाम प्रकाशन गर्दा त्यस्ता वन्यजन्तु वा वनस्पति नेपालमा पाइने हो होइन सो समेत खुलाउनु पर्नेछ ।

### ३३. विवरणको अभिलेख राख्ने:

- (१) व्यवस्थापन निकायले प्रत्येक आर्थिक वर्षका लागि देहायको विवरणको अभिलेख राख्नु पर्नेछ :-
- (क) दफा ६ को उपदफा (१), दफा ८ को उपदफा (३), दफा १० को उपदफा (३), दफा १३ को उपदफा (२), दफा १४ को उपदफा (३) र दफा १५ को उपदफा (१) बमोजिम प्रदानगरिएको अनुमतिपत्र र दर्ता प्रमाणपत्रको सङ्ख्या, अनुमतिपत्र वा प्रमाणपत्र प्रदान गरिएको मिति र त्यसको किसिम,
- (ख) सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना निकासी, पैठारी, खरीद, बिक्री तथा ओसारपसार गर्ने व्यक्ति, संस्था वा निकायको नाम तथा सो को परिमाण र सम्भव भएसम्म त्यस्ता वन्यजन्तुको आकारको विवरण र भाले वा पोथी के रहेको हो सो खुल्ने विवरण,
- (ग) दफा २२ बमोजिम जफत भएको वा दफा २३ को उपदफा (३) को खण्ड (ग) बमोजिम बरामद भएको सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको विवरण,

- (घ) दफा २७ को उपदफा (१) बमोजिम नेपाल सरकारले विदेशी मुलुकलाई उपलब्ध गराएको सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको विवरण,
  - (ङ) यस ऐन बमोजिम जफत वा बरामद भएका सङ्कटापन्न वन्यजन्तु, वनस्पति वा सो को नमुनाका सम्बन्धमा दफा ३० को उपदफा (१) बमोजिम गरिएको व्यवस्थापन सम्बन्धी विवरण,
  - (च) दफा ३० को उपदफा (३) बमोजिम सम्बन्धित मुलुकले फिर्ता लगेको सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको विवरण ।
- (२) उपदफा (१) बमोजिमको विवरण व्यवस्थापन निकायले प्रत्येक वर्ष तोकिए बमोजिम सार्वजनिक गर्नु पर्नेछ ।

### ३४. कोष खडा गर्न सकिने:

- (१) सङ्कटापन्न वन्यजन्तु वा वनस्पतिको संरक्षण, संवर्धन, अध्ययन तथा अनुसन्धान समेतको लागि एउटा कोष खडा गर्न सकिनेछ ।
- (२) उपदफा (१) बमोजिमको कोषमा जम्मा गरिने रकम, कोषको सञ्चालन तथा व्यवस्थापन र त्यसको आन्तरिक नियन्त्रण तोकिए बमोजिम हुनेछ ।
- (३) उपदफा (१) बमोजिमको कोषको लेखाको लेखापरीक्षण महालेखा परीक्षकबाट हुनेछ ।

### ३५. पुरस्कार दिन सकिने:

- (१) यस ऐन बमोजिम कसूर मानिने कार्य भएको वा हुन लागेको सूचना दिने र अनुसन्धान तथा सबुद प्रमाण सङ्कलनको कार्यमा सहयोग पुऱ्याउने व्यक्तिलाई व्यवस्थापन निकायले एकलाख रुपैयांसम्म पुरस्कार दिन सक्नेछ ।
- (२) यस ऐन बमोजिम कसूर मानिने कार्यको अनुसन्धान तथा सबुद प्रमाण सङ्कलनमा उल्लेखनीय योगदान पुऱ्याई सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको व्यापार नियन्त्रणमा सहयोग पुऱ्याउने व्यक्ति वा कर्मचारीलाई व्यवस्थापन निकायले एकलाख रुपैयांसम्म रकम प्रोत्साहन पुरस्कार स्वरूप उपलब्ध गराउन सक्नेछ ।

### ३६. प्रचलित कानून बमोजिम हुने:

यस ऐनमा लेखिएका कुरामा यसै ऐन बमोजिम र अन्य कुरामा प्रचलित नेपाल कानून बमोजिम हुनेछ ।

### ३७. नियम बनाउन सक्ने:

नेपाल सरकारले यो ऐन कार्यान्वयन गर्नको लागि आवश्यक नियम बनाउन सक्नेछ ।

### ३८. निर्देशिका बनाउन सक्ने:

- (१) नेपाल सरकारले यो ऐन र यस ऐन अन्तर्गत बनेको नियमको अधिनमा रही निर्देशिका बनाउन सक्नेछ ।
- (२) उपदफा (१) ले दिएको अधिकारको सर्वसामान्यतामा प्रतिकूल असर नपर्ने गरी नेपाल सरकारलेसङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको अन्तर्राष्ट्रिय व्यापार नियमन र नियन्त्रणको लागि खासगरी देहायका विषयमा निर्देशिका बनाउन सक्नेछ :-
  - (क) सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको कारोबारको लागि अनुमतिपत्र प्रदान गर्ने विषय,
  - (ख) पैठारी गरिएका सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना दर्ता गर्ने सम्बन्धी विषय,
  - (ग) सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुनाको अभिलेख राख्ने सम्बन्धी विषय,
  - (घ) जफत भएका सङ्कटापन्न वन्यजन्तु वा वनस्पति वा सो को नमुना व्यवस्थापन गर्ने सम्बन्धी विषय,
  - (ङ) अन्य आवश्यक विषय ।

### **3. 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.

\* An unofficial translation of the Act, prepared only for the purpose of awareness.

# 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 or their extract.
- (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.
- (3) Notwithstanding anything contained in sub-section (1) and (2) any person in their private land can plant/grow threatened or vulnerable wild flora or a specimen. The planted or naturally grown threatened or vulnerable wild flora or a specimen in the private land could be and utilized thereof.

#### 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 in the given format 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 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.
- (1) (a) Notwithstanding anything contained in sub-section (1e and f) while exporting the threatened or vulnerable wild flora or a specimen, the export license or a letter of intent to issue a license for export is not required from the authorized agency of the country.
- (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. “But the protected wild flora or a specimen thereof planted or naturally grown in the private land could be used without issuing or obtaining 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:**

Not with standing 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 and reared any endangered or rearing any endangered wild fauna 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 the given a period 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 has been retained or used without prejudice to the law in force, it shall register such wild fauna as prescribed and a certificate of registration shall be issued to the concerned person, organization or agency.
- (3) The wild fauna 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 Forest and Soil Conservation 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;
- (e) 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.
- (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.

**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 kept 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) Notwithstanding anything contained in sub-Section (1), 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 Environment 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 Environment                                    | 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 Forest and Soil Conservation                      | 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 Science 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.

**Date of Authentication:** April 23, 2017

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