



# STRATEGIES FOR ENFORCING WILDLIFE TRADE REGULATIONS IN ULAANBAATAR, MONGOLIA

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## EXECUTIVE SUMMARY

This report reviews and recommends strategies to regulate the trade of wildlife through Ulaanbaatar, Mongolia. Ulaanbaatar is an ideal site to launch an effort to support improved enforcement of wildlife trade regulations. The city is the seat of Mongolia's government, media markets, and civil society, as well as the center of the wildlife trade. Some of the country's largest raw materials markets are located to the east and west of the city. Ulaanbaatar's many road inspection points, its train station, and its airport are all strategic sites for enforcing trade regulation.

A comprehensive — and sometimes internally contradictory — framework of “species-oriented” regulations provides different penalties and fines based on the species hunted. “Trade-oriented” regulations assign criminal or administrative liability for a limited range of market activities, including transport, export, and advertising of wildlife products. At the risk of repeating the efforts of a legislative gap analysis of wildlife-related regulation (recently completed for by Wingard & Odgerel in 2006), this report will not propose legal reforms, but will assess enforcement strategies available under the existing laws.

Responsibility for enforcement of wildlife trade regulations is distributed among half a dozen different agencies. Inspectors (state and municipal), rangers, and customs officials enforce administrative penalties for minor violations. Criminal-level violations must be referred to the Mongolian National Police, who then turn cases over to the state General Prosecutor's Office for prosecution in any of *soum* or *aimag*-level courts. Getting these different agencies to collaborate on investigations, share information, and harmonize confiscation procedures must be a major focus of any successful enforcement support strategy.

After reviewing the existing legal framework and the present state of enforcement, this report will discuss specific recommendations for improving wildlife trade regulation enforcement. These include near-term measures (market surveys and “ride-alongs” with enforcement officials) to assess the strengths and weaknesses of the existing enforcement system. Public awareness strategies targeted towards Mongolians, foreign tourists, and tour operators are discussed, as well as the need for further legal research on the adjudication of wildlife crimes, and possible collaboration with Mongolian human rights lawyers, whose approach of monitoring mining-related litigation and petitioning to have cases reopened or reinstated could be applied successfully in the wildlife context. Recommended measures for improving inter-agency coordination include: establishing a database for enforcement information collection and sharing; publicizing the Mongolian State Specialized Inspection Agency's [SSIA] wildlife hotline; and creating a pocket guide to wildlife trade enforcement.

The recommendations in this report build on prior research, including the Wildlife Conservation

Society's *Silent Steppe* report (2005), and a recent training session conducted for Mongolian customs and law enforcement officials by the United States Fish & Wildlife Service [USFWS] and TRAFFIC International (2006).



# CONTENTS

1.0	INTRODUCTION.....	- 1 -
2.0	OVERVIEW OF WILDLIFE TRADE CHANNELS IN ULAANBAATAR .....	- 3 -
2.1	Market infrastructure.....	- 6 -
2.2	Transportation networks .....	- 8 -
2.3	Retail locations .....	- 9 -
3.0	MONGOLIA'S WILDLIFE TRADE LAWS & REGULATIONS .....	- 10 -
3.1	Species-oriented regulation .....	- 11 -
3.2	Trade-oriented regulation.....	- 16 -
3.3	Alternative Legislation.....	- 20 -
4.0	GOVERNMENT AGENCIES RESPONSIBLE FOR ENFORCEMENT .....	- 23 -
4.1	Inspection and Administrative Penalties .....	- 24 -
4.2	Criminal Investigation .....	- 25 -
4.3	Adjudication .....	- 26 -
4.4	Civil litigation.....	- 27 -
5.0	LESSONS LEARNED FROM ENFORCEMENT .....	- 29 -
5.1	Criminal convictions under MCC § 203 .....	- 30 -
5.2	Criminal penalties for illegal trade and export .....	- 32 -
5.3	Relationship between criminal and civil fines.....	- 32 -
5.4	Ecological assessment values.....	- 33 -
5.5	Corruption and inter-agency coordination .....	- 34 -
5.6	Enforcement of the Law on Advertising .....	- 35 -
5.7	Additional lessons learned .....	- 35 -
6.0	STRATEGIES FOR IMPROVED ENFORCEMENT .....	- 36 -
6.1	Near-term strategies .....	- 36 -
6.2	Legislation development .....	- 37 -
6.3	Public awareness.....	- 37 -
6.4	Judicial reform.....	- 39 -
6.5	Market regulation .....	- 42 -
6.6	Improving information channels.....	- 44 -
6.7	Improve inter-agency cooperation .....	- 46 -
	REFERENCES.....	- 49 -
	APPENDIX A: TIMELINE OF ACTIVITIES.....	- 51 -
	APPENDIX B: SPECIES PROTECTION KEY .....	- 54 -
B.1	CITES Appendix I + Very Rare .....	- 54 -
B.2	CITES Appendix II + Very Rare .....	- 56 -
B.3	CITES Appendix II + Rare .....	- 58 -
B.4	CITES Appendix II + Game Animal .....	- 60 -

B.5	Rare Animal + no CITES listing.....	- 61 -
B.6	Game Animal + no CITES listing.....	- 63 -
<b>APPENDIX C: RELEVANT LEGISLATION .....</b>		<b>- 65 -</b>
CONSTITUTION OF MONGOLIA.....		- 65 -
MONGOLIAN LAW ON ENVIRONMENTAL PROTECTION .....		- 66 -
MONGOLIAN LAW ON HUNTING .....		- 70 -
MONGOLIAN LAW ON FAUNA .....		- 75 -
CRIMINAL CODE OF MONGOLIA .....		- 81 -
AMENDMENT TO THE NATIONAL INSPECTION RULES FOR THE ENVIRONMENT .....		- 82 -
MINISTRY OF NATURE AND ENVIRONMENT'S ORDER #114 .....		- 86 -
LAW ON REGULATING FOREIGN TRADE OF RARE ANIMALS AND PLANTS AND THEIR DERIVATIVES -		
92 -		
MNE Order No. 214, Appendix I (2001) .....		- 96 -
MNE Order No. 159, Supplement No.3 (2002) .....		- 100 -
Collaboration Agreement Between Environment Inspection Department of State Specialized		
Inspection Agency and Inquiry and Investigation Department of Metropolitan Police Office -		101 -
List of Codes for Products that Require Licenses for Export, Central Government Order #219,		
Appendix I (2002).....		- 103 -

# LIST OF ABBREVIATIONS

MCC	Criminal Code of Mongolia
MSIA	Municipal Specialized Inspection Agency
MLEP	Mongolian Law on Environmental Protection (1995; 1998, 2002)
MLF	Mongolian Law on Fauna
MLH	Mongolian Law on Hunting (1995; 2002)
MNET	Ministry of Nature, Environment, and Tourism
MNT	Mongolian <i>togrog</i> (unit of currency)
MOJHA	Ministry of Justice and Home Affairs
NEMO	Netherlands-Mongolian Trust Fund for Environmental Reform
NGO	Non-governmental organization
SSIA	State Specialized Inspection Agency
WCS	Wildlife Conservation Society
WTCU	Wildlife Trade Crime Unit
WWF-MPO	World Wide Fund for Nature – Mongolia Programme Office







## 1.0 INTRODUCTION

*Out in the countryside, a Mongolian hunter kills a wild animal without a license, dries its skin, and sells it to a “change” (Mongolian word for wholesaler) in the soum or aimag center. The change brings the skin, along with a shipment of livestock products, to one of the raw materials markets on the outskirts of Ulaanbaatar. Traders working alone or for a trading company or local processing company buy the skin and store it in a warehouse at the market until arrangements are made for export—most likely illegal—to China.*

This sketch roughly captures the patterns of Mongolia’s participation in the global black market for wildlife products. Experts estimate that the world’s wildlife market is valued anywhere from \$6 billion to \$10 billion per year, making it second only to narcotics smuggling in revenue generated (Rubin 2004; Hemley 1995). Increasing global demand is drawing remote wildlife populations into international trade, particularly in China, where rising affluence and increasing disposable income have made demand for the organs, meat, and furs of wild animals especially acute (TRAFFIC 2008). Hunting rivals habitat loss as the greatest threat to the world’s wildlife (Bennett 2002).

Mongolia’s wildlife resources are a very important source of household income and government revenue. Through the sale of hunting licenses, for example, Mongolia’s wildlife resources generated more than 13.8 billion MNT in revenues between 2005 and 2008 (B. Bulgamaa 2009). But in Mongolia, as in other countries that supply wild furs, medicinal products, trophies, and game meat, there has been a widespread loss of biodiversity and habitat. The speed and recency of this loss is unique in Mongolian history.

With the collapse of the Soviet Union in the early 1990s, Mongolia began a rocky transition out of the political and economic orbit of its northern neighbor. The Mongolian-Chinese border, closed for decades to informal trade, reopened in 1992, and overall trade volumes between Mongolia and Inner Mongolia increased substantially, from 484.3 million USD in 1990 to 2,395.6 million USD in 2000 (Scharf & Enkhbold 2002). Many new border crossing points opened along the long Mongolian/Chinese border, placing previously remote areas of Mongolia wildlife habitat in closer proximity to Chinese consumers. Meanwhile, bureaucratic structures that had controlled the wildlife trade and gun ownership during Mongolia’s socialist regime collapsed, lacking state funding and political support. In the resulting regulatory vacuum, tens of thousands of Mongolians found an opportunity for survival: many adapted to unemployment, inflation, and the loss of state services by hunting, trapping, and trading the nation’s wildlife for food and for cash. Imports of weapons and ammunition increased sharply in the mid-1990s. The development of new trade infrastructure, such as commercial networks, road development, and improved communications, spurred the harvest and trade of wildlife products on a dramatic scale.

What has been the impact of this trade boom on Mongolia's wildlife? Reliable official statistics about the wildlife trade are themselves a casualty of Mongolia's political reorganization. Official records of the numbers of hunting or export licenses are dwarfed by the volume of wildlife products observed in markets and at the borders. For example, between 2000 and 2002, researchers affiliated with the UNDP-sponsored Eastern Steppe Biodiversity Project [ESBP] studied the hunting and trade of wildlife products in three *aimags* (provinces)—Dornod, Khentii, and Sukhbaatar—in the eastern part of Mongolia (Scharf & Enkhbold 2002). Interviews with herding households in representative study sites revealed that almost half of all households hunted. During the 2001 calendar year, ESBP researchers monitoring raw materials markets in the center of each province observed 88,000 Siberian marmots, 500 Mongolian gazelles, 300 Grey wolves, 800 Red foxes, 2,500 Corsac foxes, and 13 tons of fish, with a market value of 211 million MNT (equivalent to US\$ 192,000 at 2001 exchange rates). The number of animals observed was well in excess of permitted numbers. For example, the number of marmots observed was three times greater than the hunting quota for the three *aimags*, and four times the number of hunting licenses sold in that region.

The ESBP study revealed the basic contours of Mongolia's wildlife trade network. Herders either sold wild animal skins and meat to local traders or transported them to *aimag* markets where they would obtain a better price. Through the *aimag* markets, groups of middlemen and wholesalers purchased wildlife trade products and exported them to China, just as they did with livestock products. In the eastern *aimags*, which share several customs ports bordering provinces in China, wildlife products were often smuggled directly through those seasonal crossing points, although some were transported on to markets in Ulaanbaatar or Zamiin Uud, the largest border point (and railway crossing) on the Mongolian-Chinese border.

In 2005, the Wildlife Conservation Society (WCS) commissioned Jim Wingard and Peter Zahler to conduct the first nationwide survey of the Mongolian wildlife trade. Their findings—detailed in *Silent Steppe: The Illegal Wildlife Trade Crisis* (Wingard & Zahler 2006)—reflected rapid, catastrophic declines in economically important species in Mongolia. Wingard and Zahler estimated that in 2004, more than 250,000 Mongolians were actively harvesting wildlife nationwide, with more than 1 million Mongolians using wildlife in some form, either for personal consumption or for trade. The total value of this wildlife trade in 2004 was estimated to be about US\$ 100 million. Comparing population data gathered by academics and NGOs, Wingard and Zahler concluded that the impact of this trade on both rare and abundant species has been catastrophic. Between 1999 and 2004, the population of Mongolia's subspecies of saiga antelope (*Saiga tartarica mongolicus*) declined by 85%, from 5,000 to less than 800 animals. Red deer (*Cervus elaphus*) populations have fallen by 92% since 1986, from 130,000 to eight or ten thousand animals in 2004. The population of argali sheep (*Ovis ammon*) in Mongolia has declined by 75% in sixteen years, from 50,000 in 1975 to between 13,000 and 15,000 in 2001. The Siberian marmot (*Marmota sibirica*), a previously abundant game species valued for its meat, oil, and fur, has vanished from many parts of Mongolia; once numbering more than 40 million, the marmot population has dropped by 75% in twelve years, to around five million in 2002 (Wingard & Zahler 2006).

This report focuses specifically on Mongolia's existing legal framework for controlling the wildlife trade, and on strategies for improving enforcement, particularly in Ulaanbaatar. Before turning to those subjects, the next section provides a brief overview of the Mongolian wildlife trade.



## 2.0 OVERVIEW OF WILDLIFE TRADE CHANNELS IN ULAANBAATAR

With just over one million residents (as of December 2008), Ulaanbaatar is far and away the largest metropolitan and manufacturing center in Mongolia. The city is home to thirty percent of the Mongolian population. It is the center of government and commerce. The country's only international airport is located here, and all major rail and roadways pass through this important hub. The largest raw materials markets in the country are located in and around the city, at key intersections of that transportation network. Major media outlets, including newspapers, radio, and television, communicate legal news and trade advertisements on a daily basis from Ulaanbaatar.

In their *Silent Steppe* report, Wingard and Zahler (2006) identified several different wildlife trade channels active in Mongolia, depending on the intended end use or final destination of the wildlife product. Each of these trade channels is highly variable, responding to seasonal changes in market supply and demand from season to season. Four of those trade channels involved transport through Ulaanbaatar's markets or transportation infrastructure. For example:

**International Markets.** All types of products from all species of wildlife intended to be transported abroad are brought by hunters—both professional and amateur—to local and regional collecting points. From there, these products are transported by middle-men to larger wholesale markets (such as in Ulaanbaatar), before being exported to China or elsewhere. In Ulaanbaatar, wildlife products destined for international export are commonly exchanged or warehoused in the city's major raw materials markets—Tsaiz, Nalaikh, and Emeelt, Naran Tuul, Khuchit Shonkhor, and Kharhorin—as well as in and around the Ulaanbaatar train station.

**Domestic Markets.** A significant amount of wildlife are available for retail sale in domestic markets. These products include fish (taimen), marmot, and Mongolian and black-tailed gazelle meat; brown bear oil, and marmot oil; and furs from wolf, lynx, fox, and snow leopard, as well as ibex and argali horns. These products may be purchased by Mongolians as well as by foreign visitors.

**Domestic Processors.** Fur and meat processors also make up a sizeable domestic market for wildlife products. According to Wingard and Zahler, domestic processors are known to purchase meat from the Asiatic wild ass, as well as marmot, wolf, lynx, fox, and snow leopard pelts. Within Ulaanbaatar, the supply chain for domestic processors is centered in the industrial districts where meat and fur processing companies are located. Commercial scale hunters sometimes supply these processors directly.

**Domestic Consumers.** Some hunters transport wildlife products to urban centers for personal consumption, or to sell directly to consumers. They may pass through road inspection points on their way into Ulaanbaatar, but otherwise this trade is carried on primarily in private homes, away from public view.

**Cross-Border Markets.** Finally, individual hunters may transport wildlife products directly across the border themselves, to sell in Russian and Chinese markets. This direct, cross-border trade channel involves all kinds of wildlife species.

Only a portion of all of the animals hunted for the wildlife trade pass through Ulaanbaatar on their way to consumers' hands. Ulaanbaatar's role in the Mongolian wildlife trade reflects, in many ways, Mongolia's role as an economic satellite of the Chinese economy. As with cashmere and other livestock products, Ulaanbaatar's traders and manufacturers compete with their Chinese counterparts for their share of the wildlife pelts, organs, and meat harvested across the country. Wingard and Zahler (2006) report that three of the largest wildlife collection points in Mongolia are located in or near Ulaanbaatar, but there are also major collecting points in Choibalsan, Baganuur, Tunkhel, Govi-Altai, Mongonmort, and Erdensant. In the eastern aimags, for example, where numerous border crossing points have put wildlife resources in close proximity to the dense population and commercial centers of northeastern China, it is estimated that up to 80% of wildlife products traded in the markets of Choibalsan are smuggled directly through seasonally-open border posts in the east, rather than being transported to Ulaanbaatar for sale in the city's major raw materials markets (Scharf & Enkhbold 2002; N. Odonchimeg 2008).

This overview of Mongolia's major wildlife trade channels provides a useful starting point for our discussion of enforcement strategies that can be introduced in Ulaanbaatar under Mongolia's existing framework of wildlife protection laws. One cannot hope to intercept all of Mongolia's wildlife trade by focusing on enforcement in Ulaanbaatar. Nevertheless, the concentration of Mongolia's enforcement infrastructure, in close proximity to major markets and transportation routes in the wildlife trade, presents an unparalleled opportunity to leverage limited resources for the greatest possible effect. Understanding the strengths and limitations of that trade enforcement infrastructure is essential to identifying potential strategies for strengthening wildlife trade interdiction in Ulaanbaatar. Future enforcement efforts in aimag center markets and at trade points along Mongolia's international border will benefit from patrol strategies and inter-agency coordination developed and refined in Ulaanbaatar.

The Wildlife Conservation Society [WCS] has been actively engaged in tracking the flow of wildlife and wildlife products through the markets, restaurants, hospitals, retail shops, and transportation networks of Ulaanbaatar. Between December 2007 and February 2008, teams of WCS staff and municipal inspectors, together with consultants and university student members of the "Ecology Knowledge" club, conducted comprehensive surveys of Ulaanbaatar markets in order to quantify the levels and types of wildlife trade, as well as to map the city's wildlife trade chain (Parkinson et al. 2008). The survey teams monitored newspapers and other media outlets for advertisements related to the wildlife trade. Altogether, they completed 160 investigations, surveying twice per week in raw materials and food markets; once per week in restaurants and souvenir shops; and once every ten days hospitals. The teams identified 51 species of wildlife and fish being traded in the subject markets, in the form of horns, skins, meat, organs, and wildlife products. Many of the traded species were rare or endangered, and accorded protected legal status.

Next, in the fall of 2008, during peak marmot hunting season, WCS and Municipal SIA staff organized multi-agency patrols to intercept marmot hunting and trade in and around Ulaanbaatar.

Table 2.2. Brief Comparison of Major Sites of Wildlife Trade in Ulaanbaatar

LOCATION	DESCRIPTION	DETAILS	SPECIES TRADED
<b>EMEELT MARKET</b>	Wholesale raw materials market located west of Ulaanbaatar	Collection and minor processing of raw livestock products	[Traded secretly:] Deer ovary, Mongolian gazelle, wild boar, taimen, grey wolf, musk of musk deer, snow leopard, lynx, marmot skins, various horns and antlers, bear bile, Dalmatian pelican bill, various skins and furs.
<b>TSAIZ MARKET</b>	Wholesale raw materials market located east of Ulaanbaatar	Collection for raw livestock products coming from eastern aimags	[Traded openly:] Red fox, corsac fox, hare skins; Badger, bear, and marmot oils; wolf brains; Altai snowcock meat; many species of fish except taimen and sturgeon
<b>NARANTUUL (“BLACK”) MARKET</b>	Mongolia’s largest domestic market	Household and consumer goods	[All markets:] Fish, wildlife-derived oils, bear paw, Altai snowcock meat, wolf parts, musk of musk deer, Mongolian gazelle meat.
<b>BAYANZURKH MARKET</b>	Retail market in western Ulaanbaatar	Wide range of consumer goods, including food	[Bayanzurkh particularly:] Wildlife products and parts for medicinal use
<b>MERCURY MARKET</b>	Retail food market	Features imported goods, fresh fish, vegetables, and meat	All species of fish traded; taimen not traded openly but available on request
<b>NEWSPAPER ADVERTISEMENTS</b>	Published mainly in <i>Shuurkhai Zar</i> and <i>Zar Medee</i>	Ads “to sell” or “wanted to buy”	Red fox; Corsac fox; marmot; game birds; Red deer, etc.
<b>HOSPITALS</b>	Trauma, Burn center	Brought in by patients’ families	Wolf meat; Altai snowcock meat; bear and badger oils; Marmot; Wild boar

(Source: Parkinson et al. 2008)

Seven patrols were conducted between September 4-19, 2008, in locations popular for both hunting (Ulaanbaatar’s “Green Zone,” the Zaisan monument area and Bogd Khan Mountain Strictly Protected Area, and the Baganuur, Nalaikh district of Ulaanbaatar) and trading (Toso, Bayanzurkh, and Narantuul food markets; Ulaanbaatar Railway station; Masterdoor Fur Factory in Ulaanbaatar’s Khan-Uul district) marmot meat and skins.

The following section describes the major sites of wildlife trade activity—markets, transportation networks, and retail locations—in Ulaanbaatar, based on the observations of the WCS student teams, and reports from the multi-agency patrol teams.



## 2.1 Market infrastructure

While there is no single market in Ulaanbaatar dedicated primarily to wildlife products, there are five major markets in Ulaanbaatar that are frequent sites of wildlife trade activity. The range from outdoor wholesale markets on the outskirts of the city, where large volumes of unprocessed livestock products are traded and stored, to retail food markets in the heart of the city, featuring imported food goods popular with upscale and foreign consumers. Each of these markets—Emeelt, Tsaiz, Narantuul, Bayanzurh, and Mercury—is described in detail in the sections below.

### 2.1.1 Emeelt

The Emeelt market is one of Mongolia's largest wholesale markets for livestock and wildlife products, located about several kilometers to the west of Ulaanbaatar along the main road. There are two sections to the Emeelt market: a main market area, and—surrounding that—large, walled compounds with storage structures inside each. Traders can either rent small stations within the main market, or rent or purchase their own compounds nearby. Each compound is about one hundred meters square, and there are rows of storage units within each compound (Parkinson et al. 2008).

Veterinary inspectors and police officers man two inspection stations inside Emeelt market. The veterinary inspectors are employed by the market itself, and perform tests on sample livestock products—meat in one station, hides in another just across the road—and fill out certificates verifying that these products are free of anthrax, foot-and-mouth, and other diseases. These certificates are apparently required for the livestock products to enter Ulaanbaatar. The bulk of product transport and inspection activity takes place in the middle of the night (at least in the summer months), so as to reduce the risk of meat spoilage. According to traders, winter is the prime season for buying wildlife at Emeelt. Nevertheless, on a visit in August 2007, signs could be observed along the road where buyers explicitly advertised their interest in buying wildlife products, or merely hung up a wolf skin to convey the same message.



In the past few years, Emeelt has replaced the Tsaiz Zakh as the largest wildlife products market in the Ulaanbaatar area. Wildlife products—wolf, fox, corsac fox—appear mostly in the winter months. In the winter of 2007-2008, almost one-fifth of the WCS Student Survey teams' observations of illegal wildlife trading in Ulaanbaatar occurred at Emeelt.

When we interviewed police and veterinary inspectors at Emeelt in August 2007, they said that most of the wildlife products sold here never enter Ulaanbaatar, but are

transported directly from here to border crossing points. They said that most of the compounds are rented by Chinese traders. The police officer on duty said that he visits Emeelt once every three or four days. Together with the veterinarians, he does occasional patrols through the yards where raw materials are collected. If necessary, he can require traders to open up storage facilities so as to collect samples for analysis. There are two environmental inspectors who come frequently to Emeelt from the municipal government; they can also require traders to open up packages and boxes.

### 2.1.2 Tsaiz

Located to the east of Ulaanbaatar, Tsaiz market is a former military barracks converted into a major raw materials collection point for the three eastern aimags. Tsaiz is smaller than Emeelt, perhaps due to the fact that it only serves a smaller area (three eastern aimags), and the fact that the eastern aimags have direct border crossing points with China (making it unnecessary for hunters and traders to come to Ulaanbaatar to find a buyer for wildlife products). About 6% of the WCS student survey observations of wildlife trade were made in the Tsaiz market.



Marmot traders waiting for buyers just outside Tsaiz market

### 2.1.3 Narantuul

Popularly known as the “Black” market, Narantuul International Market is Ulaanbaatar’s largest domestic market for household and consumer goods. The market serves UB residents, businesses, and rural herders who travel to the city to purchase goods and supplies. A very diverse range of goods are offered for sale in Narantuul’s outdoor covered tables and partially enclosed container stalls, including fabric, cheap Chinese clothing, carpets, gers, furniture, tools, antiques, saddles and tack, furniture, and food. There are large notice boards located at Narantuul on which wildlife is frequently advertised. In addition, one section of the market is a prime location for the illegal trade of wildlife parts for medicinal uses, including Altai snowcock, cinerous vulture, owl, marmot (meat, liver, and kidney), wolf parts, badger oil, and wild boar meat (Parkinson et al.). Narantuul was the site of almost one-quarter of the observations of wildlife trade made by the WCS Student Survey teams in the winter of 2007-2008.

### 2.1.4 Bayanzurkh

Bayanzurkh is a large outdoor market located in the western residential area of Ulaanbaatar. In addition to inexpensive household goods and clothing, Bayanzurkh features many retail stalls selling fresh and preserved food. The WCS Student Survey teams made almost one-quarter of their



Meat sellers at Bayanzurkh market

observations of the wildlife trade in the Bayanzurkh market. Here, the market inspections are limited to police (for keeping the peace, investigating petty crimes) and the market administration office itself, both located in a building near the main entrance to the market, just off Peace Avenue. The market administration represents the market owner. A small team of accountants collect rental fees and income taxes from each seller in the market; the aggregated taxes are then turned over to the municipal

taxation department.

### 2.1.5 Mercury market

The Mercury market is located in the heart of downtown Ulaanbaatar. It consists of two halls, the first housing multiple stalls for traders retailing imported food goods, and the second featuring sellers of fresh vegetables, fish, and meat. The Mercury market is popular among Ulaanbaatar residents, native and foreign; many Ulaanbaatar restaurants also purchase food inventory here as well.

## 2.2 Transportation networks

### 2.2.1 Ulaanbaatar train station

Towards the end of the socialist period, trains were a primary vehicle for smuggling wildlife products out of Mongolia. Students going to study in Russia would hide marmot skins in compartments and ceiling panels inside the train. Today, most smuggling of wildlife products in large volumes is done by trucking across the border; medicinal products and falcons destined for Korea or the Middle East usually go by plane. The train station appears to be mostly a transit area for wildlife products like marmot or gazelle meat or fish destined for local consumption (as well as for very large shipments of wood) arriving in Ulaanbaatar from domestic/local trains.

Specifically, the Tosa Trade Center, a market of about two dozen stalls located near the railway station, is the site of prolific marmot trading, as well as the sale of other perishable goods from the countryside, like *airag* and berries.. On a visit in August 2007, we were quoted a price of 12,000 MNT for a whole marmot *boodog* (meat cooked with hot stones). A reporter in August 2008 noted that marmot *boodog* was selling for 25,000 to 30,000 MNT (B. Bulgamaa 2008). Those who crave this traditional dish could order *boodog* in advance, and have it delivered fresh by the next morning's train.



There is a small police outpost in the railway station. The police have closed circuit television monitoring equipment, which allows them to do surveillance on the area surrounding the station. The biggest obstacle to stopping the transport of wildlife through the train station, they said, was that they have no way of knowing what people are carrying inside their luggage. Without some kind of probable cause, they cannot randomly stop and search passengers' luggage.

## **2.2.2 Major roads**

Roadways are extremely important transport networks for the movement of wildlife products into Ulaanbaatar. While multiple roads lead into the city, most of the raw materials entering Ulaanbaatar from the countryside are trucked in via three major roads, from the west, the east, and the south. There are three inspection points (called *tovchoo*) set up on the western, eastern, and southern (airport) roads leading into Ulaanbaatar, a legacy of the socialist era when permission was required to travel into and out of the capitol. Each of the inspection points is staffed by police, who have a permanent station set up there. According to Ms. Badamkhand of the Ulaanbaatar Municipal Inspection Agency, three inspectors from the environmental inspection department are assigned to work at the *Tovchoo*, rotating to different *tovchoo* each week or month. These inspectors look for wildlife products, as well as forest products and other natural resources coming into the city.

## **2.2.3 Buyant-Uhaa airport**

A Customs facility at the airport screens passengers for wildlife products, particularly those listed in the CITES appendices. The frequently detected wildlife products passing through the airport are Argali trophies, live falcons, wolf skins, and animal parts.

## **2.3 Retail locations**

As the WCS Student Survey teams discovered, retail stores are another important site of the wildlife trade in Ulaanbaatar. Trophy items and fur products destined for sale to foreign tourists have been a staple of the retail wildlife trade in city shops. Meanwhile, there is growing demand among Mongolian city dwellers for wildlife products—from fresh fish to marmot meat to the glands and organs of various species used for traditional medicine—as evidenced by the WCS student teams' observations of wildlife in restaurants, shops, and hospitals around Ulaanbaatar.

Ulaanbaatar's Retail stores—particularly souvenir shops and large department stores—had significant volumes of wildlife trade, but shop staff were largely unaware of any illegality. Major sites of wildlife trade in retail stores included the State Department Store, Mungun Zavia, Mongol Beleg, the Bayangol Hotel, and Khaan Palace Hotel. Products for sale include furs (usually processed into garments or pelts), and argali or saiga horns. In restaurants, the most widely (and openly) consumed type of wildlife are fish, such as a Khovsgol whitefish (*Coregonus pidschian*). Wild game meat, like gazelle, may be commonly used as a substitute for domesticated livestock meat, but these sorts of substitutions are rarely advertised.

Hospitals are another important site of wildlife trade and consumption in Ulaanbaatar. At the Trauma Hospital and Burns & Reconciliation Center, WCS student teams observed evidence of the use of wolf meat, Altai snowcock meat, bear and badger oils, and other products. Most of these products are brought in by patients' relatives and friends for medicinal uses.



### 3.0 MONGOLIA'S WILDLIFE TRADE LAWS & REGULATIONS

Since Mongolia transitioned to democratic rule in the early 1990s, there has been measured progress in developing a new legal framework for controlling the hunting and trade of wildlife products. Today, the Mongolian wildlife trade is governed by numerous legal acts, some of them overlapping. These acts—broadly defined—include more than a dozen laws enacted by the Mongolian Parliament, as well as a many parliamentary resolutions (concerned with implementation of government activities); presidential decrees; ministry resolutions (which function as regulations, clarifying the application of general laws); and ministry rules and orders (which function as instructions for implementation).

There are many areas in which this legal framework needs to be patched and sharpened, to create a more effective enforcement regime. In recent years, experts have proposed a variety of essential and innovative improvements to existing legislation, some of which will be introduced at the end of this section. The most comprehensive, airtight legal framework in the world will not halt illegal hunting without a similarly comprehensive system of enforcement (TRAFFIC 2008), and non-governmental organizations have an important role to play in supporting government efforts to strengthen enforcement. Because this report is concerned primarily with identifying the most effective available options for improving wildlife trade enforcement, this section will survey the Mongolia's *existing* legal framework for controlling the wildlife trade. That framework can be divided into two general categories: species-oriented regulation and trade-oriented regulation. Species-oriented legislation regulates the harvest of wildlife by prescribing limits on the time, place, manner, and number of animals that can be hunted, by species. Trade-oriented laws regulate the buying, selling, storing, processing, advertising, and transporting wildlife products, raw and finished. Where legislative reforms are recommended, the focus will be on options for improving the legal regime at sub-Parliamentary levels, through ministry resolutions or municipal regulations that can be more quickly enacted than national legislation.

Legal research is much easier to do in Mongolia today, thanks to a growing number of websites and the establishment of the National Legal Center [NLC] within the Ministry of Justice and Home Affairs [MOJHA].<sup>1</sup> The NLC maintains paper and online repositories of some judicial decisions as well as legislation, resolutions, and administrative regulations. In addition, most ministries have published booklets containing wildlife-relevant regulations. At the very least, regulations are available on request from these ministries. Almost all of these materials are in Mongolian, however; for someone who is not fluent in Mongolian, legal research is a daunting task. Most major wildlife-related laws can be found in English translation, either in Jim Wingard's *Compendium*

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<sup>1</sup> The National Legal Center [NLC] was established by the Ministry of Justice and Home Affairs with assistance from the World Bank's Legal and Judicial Reform Project [LJRP], in accordance with the "Justice System Strategic Plan" adopted by the Mongolian Parliament on May 4, 2000 (Resolution 2000/39).

of *Environmental Laws*, or online at sites such as *Legislation Mongolia*.<sup>2</sup> Within the scope of this project, a handful of laws and regulations were translated into English; these unofficial translations are included in APPENDIX B: . As a caveat, it must be noted that a full review of existing policies and legislation relevant to the trade of wildlife and wildlife products will require more extensive research, most likely by a Mongolian lawyer or legal expert.

### 3.1 Species-oriented regulation

Since the early 1990s, when Mongolia's democratic government began revising its environmental policy, legislation enacted to protect wildlife and regulate hunting was organized primarily around two questions: What species may be hunted, and for what purpose? All species were categorized as Very Rare, Rare, or Game animals, with different permitting systems and penalties for violations for each category. Three laws outline what can be called the species-oriented approach, for lack of a better term. The Mongolian Law on Environmental Protection (1995; amended 1998, 2002) requires the State to prohibit the "hunting and trapping of very rare animals," and to register and protect very rare and rare animals "by entry into the Red Book of Mongolia." MLEP Art. 19 § 2.2. The latest version of the Mongolian Red Book (revised in 1997) categorizes almost one hundred

#### Species-Oriented Laws

Mongolian Law on Environmental Protection [MLEP] (1995; 1998, 2002)

Mongolian Law on Fauna [MLF]

Mongolian Law on Hunting [MLH] (1995; 2000)

species—including some thirty species of mammals and thirty species of birds—as endangered, vulnerable, or rare. Commentators caution that the Red Book is of "questionable legal significance" and is not objective: charismatic or economically important species are more likely to be included than more unremarkable (but equally threatened) species (Batjargal 2003).

In addition to the Red Book, the Mongolian Law on Fauna categorizes certain species according to the level of protection they are to be given. The Mongolian Law on Hunting (1995; amended 2000) addresses the hunting and usage of rare animals and game animals. Several tables detailing the levels of protection allocated to commonly hunted wildlife species are included in APPENDIX B.

The species-oriented approach provides a coherent legal basis for protecting wildlife from hunting pressure. Without equally comprehensive regulation of wildlife trade activity, however, the species approach suffers from several weaknesses. Most obviously, it relies almost exclusively on controlling hunting of wildlife through the issuance of hunting permits; it does not give enforcement officers many legal mechanisms for intercepting illegally-hunted wildlife products once they have passed out of the hunter's hands, and into the custody of traders, exporters, or consumers. It also assumes that hunters and enforcement officials have the capacity to correctly identify from which species a wildlife by-product (such as an antler, or internal organ) derived, and the particular level of protection accorded to that species. And it assumes that related laws will provide consistent or coordinated levels of protection for each species.

#### 3.1.1 Very Rare Animals

Under Mongolian law, species classified as Very Rare are awarded the highest level of protection. The Mongolian Law on Fauna defines Very Rare fauna as "[f]auna which have a restricted capacity

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<sup>2</sup> The URL for *Legislation Mongolia* (Lexadin) is:

<http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwemon.htm#Administrative%20/%20Public%20Law>

to recover, a limited distribution, no usable reserves, and are in danger of extinction.” MLF § 3.1.2. Article 7 of the Law on Fauna lists species classified as Very Rare. As of 2003, eleven species of mammals, six birds, and two fish were listed as Very Rare.

According to the Law on Fauna, Very Rare animals may be hunted or trapped only for scientific purposes, with special permits issued by the central government. MLF § 7.2. The law further stipulates that “hunting or trapping, preparing and trading hides, fur, and other parts of Very Rare Fauna [for non-scientific purposes is] prohibited,” and requires a government-approved environmental impact assessment for any heavy industry construction, road building, or mine development in Very Rare species habitat. MLF §§ 7.3-4.

### Very Rare Animals

“Fauna which have a restricted capacity to recover, a limited distribution, no usable reserves, and are in danger of extinction.”

MLF § 3.1.2

The hunting or catching of Very Rare animals is subject to criminal sanction under Section 203.2 of Mongolia’s Criminal Code (as amended in February 2008). Violations of § 203.2 are punishable by a fine equal to

150-250 times the minimum salary, and from three to five years’ imprisonment. As will be discussed in more detail below, it is unclear whether the criminal penalties prescribed for trading Rare animals under MCC § 203.1, or smuggling Rare animals under MCC § 175.1, would also apply to the same conduct involving Very Rare animals.

Other activities involving Very Rare animals are subject to civil penalties. Article 27 of the Law on Fauna also prescribes fines for activities—including hunting and trade of very rare animals—which do not rise to the level of a criminal violation. For example, Article 27.1.3 authorizes environmental inspectors to collect between 35,000-50,000 MNT (for individuals) and 150,000-250,000 MNT (for companies and other economic entities) for “causing a decline in the numbers of rare fauna, destruction of their habitat, or *trading in their hides, fur, and other parts.*”

Advertising the sale, purchase, or processing of Very Rare animals is also prohibited by the Mongolian Law on Advertising § 14.<sup>3</sup> An unofficial translation of the relevant part of Section 14 provides that,

14.1 It is prohibited to advertise about purchasing, selling, processing/producing animals and plants (and their parts and derivatives, including root, stem, stalk, branch, leaves, antlers, penis, testicles, doe-tail, uterus, musk pod, and gall bladder) that are included in list of rare and very rare species.

Fines for violations of the Law on Advertising are slight. Violations of § 14 carry a fine of 10,000-15,000 MNT for citizens, and up to 50,000-250,000 for organizations and economic entities.

Finally, the Mongolian Law on Fauna provides that repeated incidents of “hunting or trapping of extremely rare fauna, destruction of their habitat, or importing or trading in their hides, fur, or other parts,”—incidents that, if occurring only once, would carry only a fine—shall be subject to criminal penalties. MLF § 27.2.

### 3.1.2 Rare animals

Rare animals are defined by the Mongolian Law on Fauna as “fauna which have a limited capacity to recover, limited distribution, have a small population and are potentially in danger of extinction.”

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<sup>3</sup> Mongolian Law on Advertising (30 May 2002) §§ 14.1-2.

## Rare Animals

“Fauna which have a limited capacity to recover, limited distribution, have a small population, and are potentially in danger of extinction.”

*MLF § 3.1.3*

MLF § 3.1.3. The Law on Fauna does not provide a list of Rare species, as it does for Very Rare species, but simply states that such a list “shall be approved by the Government of Mongolia.” MLF § 7.6. As of 2003, twelve species of mammals, twenty-two birds, and two fish species were listed as Rare.

Both the Law on Fauna and the Law on Hunting have provisions outlining the permitted uses of Rare animals.

According to Chapter 7 of the Law on Fauna, Rare animals may be hunted or trapped pursuant to permits issued by the central government for three main purposes:

- 7.5.1 for scientific, research, cultural, artistic and medicinal purposes;
- 7.5.2 pursuant to the payment of special fees by foreigners and Mongolian citizens;
- 7.5.3 for regulating the numbers of fauna or removing the sources of infectious disease in certain areas.

Article 11 of the Law on Hunting repeats this list of “special purpose” permits, and allows one additional permit: “for purposes of sport hunting.” MLH § 11.2.4

Criminal penalties apply to a variety of prohibited hunting and trading activity involving Rare animals. Under Section 203.1 of Mongolia’s Criminal Code (amended in February 2008), individuals who hunt or catch Rare animals without permission, or store, sell, purchase, or transport raw materials derived from Rare animals, shall be punished by a fine equal to 51-150 times the minimum salary, incarceration for a term of three to six months, or imprisonment for a term of up to three years. MCC § 203.1. As will be discussed in more detail below, it appears that the more serious criminal penalties prescribed for hunting or catching Very Rare animals under MCC § 203.2, do not apply to hunting or catching Rare animals.

The Criminal Code does set out penalties for exporting Rare animals across the Mongolian border. Section 175.1 of the Criminal Code (also amended in February 2008) provides that smuggling of Rare animals is a crime punishable by a fine of 51 to 150 times the minimum salary, 251 to 500 hours of forced labor, or three to six months’ imprisonment, with confiscation of property. Steeper penalties are applied under Section 175.3 for repeated incidents of smuggling, or smuggling by organized groups.

Just as with Very Rare animals, a citizen who hunts Rare fauna without a valid license or special permit will be subject to a fine of between 20,000 and 50,000 MNT; for economic entities, the fine amount may range from 50,000 to 250,000 MNT. MLF § 27.1.2. Trading in the hides, fur, and other parts of Rare animals without permission is also subject to confiscation and fines, ranging from 35,000 to 50,000 for individuals, and 150,000 to 250,000 MNT for entities. MLF § 27.1.3. For repeat violations, the Mongolian Law on Fauna states that criminal penalties may also apply, although penalties are not spelled out in the Criminal Code of Mongolia.

Also, just as for Very Rare animals, advertising the sale, purchase, or processing of Rare animals is prohibited by the Mongolian Law on Advertising § 14.1; the same range of penalties applies as discussed above.

### 3.1.3 Game Animals

The harvest of game animals is governed primarily by the Mongolian Law on Hunting. The Hunting Law defines game animals as “those mammals, birds and fish which are native to, have been reintroduced to or are migratory within the territory of Mongolia.” MLH § 3.1. Game animals may

#### Game Animals

“Those mammals, birds and fish which are native to, have been reintroduced to or are migratory within the territory of Mongolia.”

*MLH § 3.1*

be hunted for industrial, household, and special purposes, MLH § 6.1. No exhaustive list of game species is provided in the Hunting Law, but permitted hunting seasons for certain species are listed in Article 13.

What are the legal consequences of hunting a game animal illegally? The answer depends on how many animals are taken, and how much damage the hunter causes.

Criminal charges may be brought against anyone who causes “damage in a large amount” by hunting in a strictly protected area, or outside the hunting season, or “with prohibited weapons, means, or methods.” MCC § 203.1. There appears to be some confusion about what constitutes “damage in a large amount.” By statute, the threshold amount is set at a multiple of 125 times the minimum salary (where the minimum salary is a periodically fixed amount, like a minimum wage). In practice, officials gave different responses when asked to define “large amount”: In a 2007 interview, Mr. Dorjgotov (MNE) put the figure at \$6,000 (FWS 2007). To put this figure in perspective, the price of one marmot skin at the Nalaikh market in August 2007 was 6000 MNT; one would have to hunt or catch about 1,000 marmots to be subject to prosecution. Penalties range from 51 to 200 times the minimum salary with confiscation of property; or imprisonment for a minimum of 3 to 6 months, up to a maximum of three years.

If a violation falls below the § 203.1 criminal threshold, an environmental inspector will assess whether the hunter possessed a license and the hunter will be subject to various administrative penalties under the Mongolian Law on Environmental Protection, Art. 37-38. These penalties include *reimbursement* or compensation for the value of any environmental losses resulting from the violation (§ 37.1) plus additional fines under Article 38.

### 3.1.4 Species listed in Appendix I & II of the Convention on International Trade of Endangered Species [CITES]

The Mongolian Parliament ratified the Convention on International Trade of Endangered Species [CITES] on May 1<sup>st</sup>, 1995; in 1996, Mongolia became the 133<sup>rd</sup> party to the CITES Convention. (Bolormaa 1998). Since that time, Mongolia has reportedly earned 1.5 billion MNT from the international trade of endangered species of flora and fauna.<sup>4</sup> A total of 14 mammals, 71 birds, 8 plants, 2 species of fish, 1 species of insects, and 1 species of reptiles are included on Appendices I and II of the Convention on the International Trade of Endangered Species (CITES). Interestingly, the Mongolian Parliament has approved at least one national environmental statute that, in theory, could be affected by its accession to the CITES treaty. The Mongolian Law on Environmental Protection provides that “if an international treaty to which Mongolia is a party is inconsistent with [the Law on Environmental Protection], then the provisions of the international treaty shall prevail.” MLEP § 2.2.

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<sup>4</sup> See [http://www.mongolianembassy.us/eng\\_about\\_mongolia/nature\\_and\\_environment.php](http://www.mongolianembassy.us/eng_about_mongolia/nature_and_environment.php)



**Table 3.1 Categorization of commonly traded wildlife species under the Mongolian Law on Fauna and CITES**

	VERY RARE	RARE	GAME
<b>CITES I</b>	Snow leopard		
<b>CITES II</b>	Siberian musk deer Saiga antelope	Argali sheep Eurasian lynx Brown bear Red deer	Grey wolf Pallas' cat
<b>Non-CITES</b>	Eurasian otter Beaver	Siberian ibex Beech marten Wild boar Black-tailed gazelle  Taimen  Altai snowcock	Siberian marmot Red fox Corsac fox Siberian roe deer Mongolian gazelle Eurasian red squirrel Sable Steppe polecat Eurasian badger Wolverine Tolai hare Muskrat

Species threatened with extinction are listed under CITES Appendix I, and are given the highest level of protection. Trade of Appendix I species is permitted only in exceptional circumstances (eg., for scientific research), and both an import permit and an export permit are required. The import permit may only be issued by the CITES Management Authority of the State of import if the trade is for non-commercial purposes that are not detrimental to the survival of the species. An export permit may be issued by the CITES Management Authority of the State of export only if the specimen was legally obtained; the trade will not be detrimental to the survival of the species; and an import permit has already been obtained.

Species listed under CITES Appendix II are not necessarily threatened, but the Parties to the Convention recognize that trade in these species must be controlled in order to avoid utilization incompatible with their survival. An export (or re-export) permit is required under CITES Appendix II. The permit may be issued only if the specimen was legally obtained and if the export will not be detrimental to the survival of the species.

The categorization of species as Very Rare and Rare under the Mongolian Law on Fauna does not correspond exactly with the levels of protection provided to those species under the CITES treaty, largely because species that are rare or endangered within Mongolia may be more abundant worldwide. A comparison of the categorization of species under the Mongolian Law on Fauna and the CITES treaty is provided in Table 2.1.

CITES is not a self-executing treaty; it relies upon member countries to implement internal legislation and enforcement mechanisms to give the treaty effect. (Rubin 2005). Cooperation among member nations—including intelligence-sharing and extradition—is also crucial for CITES enforcement. In the United States, for example, the Lacey Act, 16 U.S.C. §§ 3371 *et seq.*,

empowers the U.S. government to enforce foreign wildlife protection laws in U.S. courts. Coordination between Mongolian and foreign officials, therefore, opens up additional legal options for stopping the illegal export of wildlife after the animals have already left Mongolian soil.

On November 7, 2002, the Mongolian Parliament approved new legislation to implement CITES provisions.<sup>5</sup> Announcing the passage of this law, the Mongolian Embassy to the United States observed that “failing to meet convention standards would have resulted in an embargo on the country's exports and imports as well as financial assistance and support by other member countries.”<sup>6</sup> Under the 2002 law [LRFT], Mongolia designated a CITES Management Authority (currently headed by Mr. A. Bolat) and a Scientific Authority (headed by Dr. N. Sarantuya), both of whom are employed by the MNE. The Management Authority is charged with—among other things—authorizing the import and export of animals and plants listed in the Convention appendices, and overseeing the “sale, elimination, or release into nature of [listed] confiscated animals and plants.” LRFT § 5.4, 5.8.

The new law mandates that permits should only be issued when the “management authority” concludes that the animal to be exported was not obtained in violation of national wildlife protection laws, and when the “scientific authority” confirms that exporting the animal will not jeopardize the survival of the species. The effect of this clause, then, should be to harmonize CITES implementation with the rest of Mongolia’s wildlife protection regime. (Zimmerman 2003).

The CITES implementation law does not add much to the wildlife trade enforcement arsenal. It imposes slight administrative penalties for failure to obtain an export permit. An unofficial translation of Article 15 of the law provides that unless the violation qualifies as a criminal offence, fines for the failure to obtain a CITES permit or the fraudulent use of a permit are capped at 250,000 MNT. What this means is that CITES violations involving Appendix I species—most of which are classified as Very Rare—would be punishable as crimes under MCC § 203 anyway. And for species that are classified as Rare or Game animals but are listed under CITES Appendix II, the CITES legislation imposes only minimal administrative fines to augment existing penalties.

## **3.2 Trade-oriented regulation**

Having surveyed the different types of protections and penalties available for different species, we turn now to the protections and penalties that govern different trade activities. The Mongolian wildlife trade involves a range of activities that might be subject to administrative regulation, taxation, and even criminal liability, including buying, selling, storing, processing, advertising, and transporting wildlife products, raw and finished. Generally speaking, trade-oriented regulation is not developed as extensively as species-oriented regulation, both in the scope of the laws themselves, and in their application. In addition to the export permit requirements established by the CITES implementing legislation, highlighted in the previous section, this section examines laws governing the possession and advertisement of wildlife products.

### **3.2.1 Criminal liability**

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<sup>5</sup> Full text of the 2002 implementing legislation (“ХОВОРДСОН АМЬТАН, УРГАМАЛ, ТЭДГЭЭРИЙН ГАРАЛТАЙ ЭД ЗҮЙЛИЙН ГАДААД ХУДАЛДААГ ЗОХИЦУУЛАХ ТУХАЙ”) can be found in Mongolian at <http://www.legalinfo.mn/insys/lawmain.php?vlawid=1454>.

<sup>6</sup> [http://www.mongolianembassy.us/eng\\_about\\_mongolia/nature\\_and\\_environment.php](http://www.mongolianembassy.us/eng_about_mongolia/nature_and_environment.php)



Mongolia's Criminal Code (as amended in September 2002, and again in February 2008) has at least three provisions that criminalize illegal hunting or illegal trading of wildlife. The most important of the three provisions is Section 203, which provides for steep fines and imprisonment for certain violations of hunting laws. Prior to February 2008, Section 203 set out two levels of criminal penalties: one level for "causing damage in a large amount" by hunting illegally, and a second, more serious level for hunting or exporting endangered animals. In 2006, an inter-agency working group led by the MNET sought amendments that would impose criminal penalties not only for hunting or exporting wildlife, as the statute was written, but for buying, selling, trading, transporting, and *attempting* to export wildlife (MNET Working Group Report 2006). As amended, Section 203 now provides:

**203. Violation of the hunting legislation** */This section was amended as of February 1, 2008/*

- 203.1. Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools; hunting, catching, or raising/taming rare animals without permission; or storing, selling, purchasing, or transporting the raw materials of such animals; shall be punishable by a fine equal to 51 to 150 times the minimum salary, incarceration for a term of more than 3 to 6 months, or imprisonment for a term of up to 3 years.
- 203.2. Causing damage in an extraordinarily large amount; hunting or catching a very rare animal; shall be punishable by a fine equal to 150 to 250 times the minimum salary, or from three to five years imprisonment.

The amended version has solved many problems of the old version of Section 203 with respect to extending criminal penalties to market activity involving wildlife, but it also raises new problems with regard to application.

For example, the MNET working group's proposed amendment to § 203.1 intended to criminalize a wide range of activity—hunting, catching, storing, selling, purchasing, and transporting without permission—involving both very rare and rare animals. The new version of § 203.1 as enacted, however, spells out penalties for those activities only when they involve rare animals. As a consequence, it appears that there is no criminal liability for exporting, selling, storing, purchasing, transporting products derived from very rare animals. This apparent inconsistency in the law is especially problematic in light of a related section of the Mongolian Law on Fauna, which provides that repeated violations of MLF §§ 27.1.2-27.1.4 of that law or "the hunting or trapping of extremely rare fauna, destruction of their habitat, or importing or trading in their hides, fur, or other parts" should be subject to criminal penalties. The Criminal Code does not specify what those penalties for importing or trading activity would be, and indeed, § 203.1 seems to suggest that no such penalties apply for very rare animals. Based on the placement of the semicolons in § 203.1, it is also unclear whether the prohibitions against storing, selling, purchasing, etc. would apply in the case of game species hunted in "large amount."

Similar questions arise over the scope of Section 203.2. The MNET's proposed version prescribed the stiffer penalties of § 203.2 for the hunting or catching of both very rare *and* rare animals, but the version of § 203.2 actually enacted only appears to apply to very rare animals. One can only

assume that Parliament's concern was to reserve the stiffer penalties of § 203.2 for very rare animals only.

A separate section of the Criminal Code—Section 175—sets out criminal penalties for the smuggling of a variety of items, including rare animals. As amended in February 2008, Section 175 provides:

#### **Article 175. Smuggling**

175.1 Smuggling of prohibited or restricted goods on a small scale; rare animals; as well as on a large scale currency, minerals, jewels, or other valuables; shall be punishable (with or without confiscation of property) by a fine equal to from 51 to 150 times the minimum salary; from 251 to 500 hours of forced labor; or from three to six months incarceration. /This section was amended on February 1, 2008/

175.2. The same crime committed repeatedly, in a group, or by abuse of one's official post, as well as smuggling of items of historical and cultural heritage, museum exhibits, prehistoric animals and plant roots, archaeological or paleontological fossils shall be punishable by a fine equal to 100 to 250 amounts of minimum salary, 251 to 500 hours of forced labor or imprisonment for a term of 2 to 5 years. /This section was amended on February 1, 2008/

175.3. The same crime committed by a recidivist, an organized group a criminal organization, or if it has caused damage in a large amount shall be punishable by confiscation of property and imprisonment for a term of up more than 5 to 8 years.

Interestingly, the fact that Section 203.1 criminalizes the transport of raw materials derived from Rare animals may make that provision more attractive to Mongolian prosecutors than § 175, which provides less stringent penalties for smuggling, an activity analogous to transporting.

Finally, Section 119 of the Mongolian Criminal Code provides that individuals who create “potential danger of spread of plague and other virunal [sic] diseases through violation of the . . . rules . . . for combat of plague” may face a minimum of three to six months' imprisonment, up to two years. MCC § 119.1. This particular penalty is relevant to the transport, storage, and handling of raw Siberian marmot meat and skins, which can be a vector for the spread of plague.

### **3.2.2 Civil penalties for trading illegally-hunted wildlife products**

Under the Mongolian Law on Hunting, there are numerous provisions authorizing environmental inspectors to levy fines for unlawful hunting activity—from the use of prohibited equipment or methods, to hunting game animals outside the prescribed hunting season. Once the illegally hunted wildlife leaves the hunter's possession, however, and passes into the hands of traders, processors, or consumers, the legal basis for enforcement narrows substantially.

The most important provision for imposing civil liabilities for the illegal use of wildlife is set forth in Section 25 of the Mongolian Law on Fauna. That section authorizes government enforcement officials to assess fines on persons who cause “losses to fauna as a result of a violation of the legislation on fauna.” The amount of the fine can be significant: equal to twice the ecological and economic assessment value for a species, as determined by the government.

The key issue in imposing fines under MLF § 25 is whether a particular activity that causes losses to fauna actually constitutes a “violation of the legislation on fauna.” In cases involving illegal hunting, the violation and resulting damage are clear cut. Where the activity involves illegal trading, transport, storage, etc. of wildlife, inspectors may be more hesitant to assert that such a violation took place. In part, this is because another section of the Mongolian Law on Fauna prescribes confiscation and fines for purchasing the skin, fur, or other raw material of a rare or very rare animal without permission. MLF § 27.1.3. Fines under § 27 are much smaller, ranging from 35,000 to 50,000 MNT (individuals) and 150,000 to 250,000 MNT (entities) Additionally, the Mongolian Law on Hunting specifically prohibits “bringing raw marmot meat or their wet skin into cities and settlements,” MLH § 15.1.9. Citizens who violate this provision will be subject to administrative fines of 10,000-20,000 MNT; economic entities and organizations are subject to fines of 75,000-150,000 MNT. MLH § 16.1.5.

Beyond those provisions, there are few legal provisions allowing for confiscation or administrative penalties for other trading activity involving Mongolian wildlife. How is this possible? From a strictly legal perspective, it is illegal to possess wildlife that has been hunted illegally. Hunting without a license is a violation of the Mongolian Law on Hunting, because wildlife is the property of the state. If an animal is hunted with a license, the raw materials of that animal “shall belong to the hunter or trapper.” MLF §§ 10.1 & 10.2. A hunter cannot own wildlife materials that he or she has hunted *without* a license; illegally hunted wildlife still belongs to the state. And logically speaking, a hunter who sells illegally hunted wildlife to a trader cannot transfer ownership of materials if the hunter did not own the materials in the first place. Thus, the state is legally entitled to recover possession of illegally hunted wildlife from traders and other third parties who did not directly hunt the animal.

From an enforcement perspective, the problem is not that the State does not have rights to the illegally-hunted wildlife, but that it can’t *prove* that it has rights to the wildlife—i.e., that the wildlife was illegally hunted. In an interview in 2007, Ms. Ariunzul, head of the section of Environment section of the State Specialized Inspection Agency, explained the issue this way: “Basically when people do inspection, the lawbreakers say that I didn’t hunt this animal, I didn’t catch it, someone sold it to me, someone gave it to me as a present, someone just gave it to me, or I just found it, or someone just gave it to me to sell. They tell all of these excuses and walk free without any penalty.”

There have been some efforts to eliminate the “problem of proof” via legislation. An amendment to the Mongolian Law on Hunting was passed in 2002 (§ 15<sup>1</sup>.1.1) which requires hunters to attach a tag, distributed by the MNE with the sale of hunting licenses, to the skin or carcass of designated species, in order to prove that the animal was legally hunted. The MNE promulgated regulations under this amendment which specify about eighteen mostly abundant species that must be labeled with the tag, including Red fox, Corsac fox, Red deer, wild boar, Roe deer, squirrel, badger, raccoon dog, Mongolian gazelle, and Siberian marmot (see Ministry of Nature and Environment, Supplement No. 3 to Order No. 159 (2002), printed in APPENDIX D). Products from these species may not be prepared, processed, transported, sold, or bought without the required tags, which are issued each year by soum environmental inspectors. The tags may not be applied to Very Rare or Rare species, or to species listed in CITES Appendix I or II. Each tag must have a unique serial number, and may not be bought or sold.

According to the state environmental inspectors, there have been problems with implementation of the tagging system in recent years. Mr. Badam, a former SSIA inspector, reports that the regulation requiring the use of tags specifies that the color and pattern printed on the tags should be changed from year to year. In practice, the MNE ordered only one set of (green-colored) tags in

2002, and has not reordered since. Ministry officials explain that the cost of printing new tags is prohibitive, although one would expect that proper implementation of the tagging system would generate more revenue from increased hunting license sales. Also, because hunting bans have been in force for several years for particular species, the supply of 2002 tags has not run out. For example, in 2007, marmot hunting continued to be banned, and the tags were used only for Mongolian gazelle. Mr. Badam points out that the continuous use of 2002 tags not only violates the regulation, but encourages people to buy tags and hold them from year to year, inviting counterfeiting problems.

### **3.2.3 Controlling advertisements for wildlife**

As explained in the species-oriented sections above, the Mongolian Law on Advertising (2002) § 14 prohibits advertising Rare and Very Rare wildlife parts in national or local media. An unofficial translation of Section 14 provides that,

14.1 It is prohibited to advertise about purchasing, selling, processing/producing animals and plants (and their parts and derivatives, including root, stem, stalk, branch, leaves, antlers, penis, testicles, doe-tail, uterus, musk pod, and gall bladder) that are included in list of rare and very rare species.

14.2 Within the framework of one's legal plenary powers, it is prohibited to advertise about purchasing, selling, and processing animals and plants, or producing their organs and/or raw materials, during periods when the hunting or slaughter of those species has been prohibited by Government resolution.

Fines for violations of the Law on Advertising are slight. Violations of § 14 carry a fine of 10,000-15,000 MNT for citizens, and up to 50,000-250,000 for organizations and economic entities. Enforcement might have more of a deterrent effect if the law was amended to have stiffer penalties, and to hold publishers—newspapers, or public address services provided in market centers—jointly liable for printing or broadcasting illegal wildlife advertisements.

An amendment might not be necessary, depending on what the standard is for establishing complicity or joint liability of a publisher in a violation of the Law on Advertising. Further research is needed on this point. For example, the Mongolian Criminal Code defines joint criminal liability for the “deliberate joint participation of two or more persons in committing a crime.” MCC § 34.1. Under this standard, a publisher may be an “accessory” to a crime if he or she “provides . . . means or removes obstacles.” An advance agreement is not necessary for complicity, as under Mongolian law “[t]wo or more persons with no advance agreement but acting jointly to commit a crime shall be recognized co-principals.” MCC § 36.2. Since the Law on Advertising provides for civil penalties only, one would have to look at the civil code to find the applicable standard for complicity there.

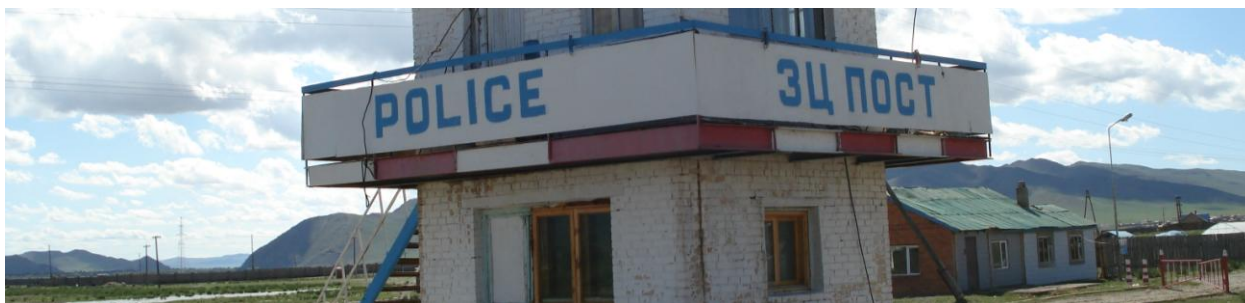
## **3.3 Alternative Legislation**

Having surveyed the existing framework of Mongolian laws governing the hunting and trade of wildlife products, we turn briefly to highlight some of the most important opportunities to fill “gaps” in the existing framework with new, alternative legislation. International NGOs have played an important role in providing encouragement and technical assistance for the improvement of Mongolia’s environmental legislation. For example, in 2006, with WCS support, Jim Wingard collaborated with Mongolian State University School of Law instructor Dr. P. Odgerel to identify loopholes and conflicts in existing laws and regulations governing wildlife management (Wingard,

Nyamtseren & Odgerel 2006). With regards to control of the wildlife trade specifically, the authors proposed several new approaches to enforcement. For example, they recommended legislation that would restrict trade in wildlife products to specific domestic markets and international border points, where government officials would have expanded inspection rights. Other proposals included establishing a wildlife product registration for trophy species and wildlife products of aesthetic or medicinal value; setting up a wildlife hotline for rapid reporting of violations; promulgating regulations clarifying chain-of-custody requirements for authenticating, storing, and transporting evidence; setting minimum, flat rate rewards for informants (as opposed to the current fine percentage-based rewards); and implementing anti-corruption measures.

- *Enforcement.* The types of penalties that may be applied are the subject of the Administrative Liabilities Law and the Criminal Law, and sections of the Mongolian Law on Hunting (§16) and Mongolian Law on Environmental Protection (§38). The authors recommend including suspension of hunting privileges for repeat violations.
- *Enforcement authority.* Only police and intelligence officers have the authority to arrest, but police are overburdened, lack expertise, have limited access to witnesses, evidence, etc. The authors recommend expanding enforcement authority for rangers and environmental inspectors.
- *Regulate chain of custody requirements.* At present, no such requirements exist under Mongolian law. The authors recommend developing regulations to clarify the types of evidence that must be sent to a laboratory; the types of documents required for submission of evidence and establishing chain of custody; protocol for sealing, storing, and transporting evidence (especially perishable items).
- *Reporting violations (Wildlife hotline) and Whistle-blower incentives.* Various resolutions and orders have been passed related to this activity. The authors recommend expanding legal protections for whistle-blower anonymity, and setting minimum rewards (instead of percentages of fines) to reward reporting.
- *Prohibit possession of unregistered/untagged wildlife parts.* Under the Mongolian Law on Hunting, §15<sup>1</sup>.1.1, wildlife parts traded without a certificate of origin are subject to confiscation. The authors recommend making possession, sale, purchase, and transportation of any wildlife parts illegal unless properly tagged and/or registered.
- *Develop standard protocols for handling confiscated wildlife products.* The authors note that no organizational protocols define the relationship between prosecutors, police, inspectors, expert government witnesses, and the courts. As a result, enforcement bodies may dispose of confiscated goods without any provision for preserving them as evidence for criminal proceedings.
- *Empower customs officials to arrest and prosecute violations.* Upon discovering a violation, customs officials must transfer enforcement immediately to police. Since this policy went into effect in 2002, there has been a dramatic reduction in the number of international trade violations that are actually fully prosecuted.
- *Prohibit advertising wildlife parts in national or local media.* Under the Criminal Code of Mongolia, only certain offenses (involving endangered species, or where the hunting caused a “large amount” of damage) are punishable as crimes, MLCC § 203. The Mongolian Law on

Administrative Liabilities empowers rangers to decide fine levels within amounts established by law (§7.9), and defines four types of administrative liability: penalty, limitation of rights, confiscation, and arrest (§4). The Mongolian Law on Hunting MLH §16; MLEP §38.



## 4.0 GOVERNMENT AGENCIES RESPONSIBLE FOR ENFORCEMENT

Within Ulaanbaatar, responsibility for enforcing wildlife protection laws is distributed among national and municipal departments of taxation, police, health, customs, court decisions enforcement, food and agriculture, and environmental protection. The list below summarizes the various responsibilities of environmental inspectors, protected area rangers, police, border guards, customs officials, special anti-poaching patrol teams, veterinary inspectors.

- **Protected Area Administration [PAA].** The Protected Area Administration is an agency within the Ministry of Nature, Environment, and Tourism [MNET]. Its staff consists of rangers and volunteer rangers posted in or near protected areas around the country. The PAA derives its authority from Articles 27-29 of the Mongolian Law on Environmental Protection [MLEP]. Under that law, PAA rangers are empowered to monitor compliance with environmental laws (§ 27.1.1); carry out inspection of ID cards, confiscate illegally hunted items and weapons, and impose administrative penalties (§ 27.1.2); issue permits (§ 28.2.2); and carry arms and special self-defense weapons on patrols (§ 29.1).
- **CITES Management Authority [CITES MA].** The CITES Management Authority is also housed within the MNET. It consists of two components—a Management Authority and a Scientific Authority. Under the Law on Regulating Foreign Trade of Rare Animals (Articles 5 and 6), CITES officials are empowered to authorize customs entry on export and import of animals and plants listed in the CITES Appendices and their derivatives (§ 5.4). CITES officials also oversee the sale, elimination, or release into nature of confiscated of CITES-listed animals and plants (§ 5.8).
- **State Specialized Inspection Agency [SSIA].** The SSIA was established as an independent agency in 2003. The Mongolian Law on Environmental Protection (Article 27) spells out many powers and duties of SSIA inspectors. Inspectors monitor compliance with environmental laws regardless of their jurisdiction (§ 27.1.1); their monitoring powers include the power to obtain information and documents required for monitoring (§ 27.1.2); the power to take and analyze samples from any “economic entity” (§ 27.1.4); the power to inspect ID cards and confiscate items illegally hunted, collected, or prepared, as well as weapons and tools used (§ 27.1.6); and the power to inspect vehicles if necessary, and temporarily seize documents (§ 27.1.6). While on patrols, inspectors are authorized to carry arms and special self-defense weapons (§ 29.1). With

regards to enforcement, inspectors may impose administrative penalties on persons in violation of environmental legislation (§ 27.1.7), and inventory forfeited or seized items, weapons, and tools (§ 27.2.5).

- **Ulaanbaatar Municipal Specialized Inspection Agency [USIA].** The Ulaanbaatar Municipal SIA is a sub-branch of the SSIA. It has a staff of 300 inspectors. Of those 300, nineteen are staffed in the Environmental Department, which includes one wildlife inspector. The duties and responsibilities of the Municipal SIA inspectors are identical to those of SSIA inspectors generally, discussed in the previous paragraph. In carrying out those duties, Municipal SIA inspectors in the environmental department carry out inspections of vehicles entering Ulaanbaatar at the *tovchoo* (inspection stations) on major roads on the outskirts of the city.
- **Customs General Authority.** The Customs office oversees the inspection of, among other things, wildlife imports and exports. According to the Mongolian Law on Environmental Protection, customs inspectors may be “authorized to exercise the powers of state environmental inspectors and shall carry out inspection duties on the order of the Minister of Nature and Environment.” [MLEP § 26.2] About 150 customs inspectors work in nine offices nationwide. They are responsible for overseeing twenty seasonal and year-round “ports” on the Mongolian border, plus the Buyant-Uhaa airport in Ulaanbaatar.
- **National Police Agency [NPA].** The National Police Agency includes an Environmental Crimes Unit, which has a staff of 58 members/officers. Members of the Environmental Crimes Unit are authorized to enforce and investigate criminal environmental activity involving wildlife and other natural resources under Article 23, enacted in 2002.
- **State General Prosecutor’s Office of Mongolia [SGPO].** The SPGO is staffed by 375 prosecutors nationwide. They are responsible for oversight of criminal prosecutions, as well as execution of punishments.

As these brief descriptions indicate, a variety of different agencies are empowered to enforce Mongolia’s wildlife protection laws. Coordination of these agencies’ efforts is critical for effective enforcement. The sections below explore the different kinds of coordination needed, depending on whether the illegal activity involves civil or criminal penalties.

## 4.1 Inspection and Administrative Penalties

The majority of illegal wildlife trade activity does not rise to the level of a “crime.” Under the Mongolian Law on Administrative Liabilities [MLAL], incidents involving abundant species in relatively small quantities trigger automatic administrative fines with no adjudication. In Ulaanbaatar, environmental inspectors working under the national and municipal branches of the State Specialized Inspection Agency are charged with conducting inspections and assessing administrative penalties.

Article 3 of Resolution No. 97 of the Government of Mongolia spells out inspectors’ responsibilities when investigating violations of environmental laws (See APPENDIX C: RELEVANT LEGISLATION).



State environmental inspectors (under the SSIA) and Protected Area rangers (under the MNE-PAA) are empowered by the Mongolian Law on Environmental Protection to exercise a variety of inspection powers. These include: confiscating items (and weapons) illegally hunted; monitoring compliance with environmental laws; inspecting information, documents, and identification cards; inspecting vehicles when necessary; and carrying self-defense weapons. An environmental inspector may levy fines and set deadlines for payment. Fine amounts must be within the range set by the Mongolian Law on Administrative Liability § 7.9. The inspector must fill out a form (with one copy given to the violator) that includes a description of the violation, a citation to the specific law or regulation violated, and an inventory of items confiscated and fines imposed. Within 14 days, confiscated items must be transferred to “the related bodies,” and a summary of all violations (including violations revealed and resolved; fines levied and paid; etc.) must be sent to the aimag or central branch of the State Specialized Inspection Agency every six months.

Police officers have many of the same powers as inspectors, plus additional powers inspectors do not have, like the power to arrest. As will be discussed in the next section, the overlap in powers and responsibility has been the source of some conflict between the SSIA and the National Police Agency over what role each agency should play in enforcing environmental laws.

## **4.2 Criminal Investigation**

Amendments under Article 23, enacted in 2002, give the National Police Agency authority to enforce and investigate criminal environmental activity involving wildlife and other natural resources (including timber and mining). We would interpret that amendment to mean that if the violation was subject to § 203, other agencies would be required to turn the case over to the police for investigation. According to James Wingard & P. Odgerel (2006), convictions under the wildlife crime provision have declined since the new policy was put in effect. They explain that the police are usually overburdened, lack expertise, and have limited access to witnesses, evidence, and scenes where the violation occurred.

Agencies like the SSIA have signed cooperation agreements with the Police to clarify their respective investigative roles. Under a joint cooperation agreement signed with the Investigation Department of Police in 2003, the SSIA’s Environment Inspection Department is responsible (at the central and local levels) for providing the Police with information about crimes committed and professional support for case recording. In the Agreement, inspectors committed to organize workshops and training for the Police; to supply the Police with files on crimes and conflicts; and to “urgently inform” the Department about hunting and other environmental violations. (See APPENDIX C.1, at 2.1-2.4). The central and local branches of the Police committed to similar information-sharing, collaboration, and rapid-response criminal investigation. A general cooperation agreement signed by the same parties in 2004 further clarified subjects of collaboration—including illegal hunting and wildlife trade (See APPENDIX C.2, at 2.9). Under the 2004 agreement, the SSIA pledged to promptly transfer criminal cases to the Police, and the Police agreed to transfer administrative cases to the SSIA. The agreement also called for joint inspection, information-sharing, and other forms of support, as well as annual meetings between the heads of both agencies. As will be discussed in the next section, these measures have not entirely resolved the conflicts between the Police and the SSIA.

## 4.3 Adjudication

Mongolia's legal system is based on the Romano-Germanic tradition, which recognizes separate bodies of civil and public law (including criminal law). Public law governs the legal relationships between the citizen and the state, and civil law governs interactions between private individuals, or between a public body and a private individual. Because wildlife is the property of the state, most legal disputes arising over the hunting or possession of wildlife products are matters of public law. Most public law actions—including violations of the hunting law and other wildlife-related regulations—are minor incidents, and are settled through simple, administrative procedures. For example, an environmental inspector discovers a violation, confiscates illegally hunted wildlife products, and levies a fine. If a dispute arises in the course of this process, the issue can be brought before an administrative court. (O. Tseveen & B. Ganbold 2006).

Civil suits and criminal prosecutions are brought before courts of ordinary jurisdiction, which are divided into three levels. At the lowest level, soum, inter-soum, and district courts have jurisdiction over misdemeanors and less serious crimes, and civil disputes where the amount in controversy is less than 10 million MNT (about US\$ 22,000). More serious crimes and civil matters (where the amount in dispute is greater than 10 million MNT) must be brought in aimag center courts and the Capital City Court in Ulaanbaatar. The Aimag and Capital City courts also hear appeals from the lower soum- and district-level courts. At the highest level is the Supreme Court, which hears appeals from decisions of the Aimag and Capital City courts, as well as any matters that are not specifically within the jurisdiction of the other courts. The Administrative Cases Courts, first established in June 2004, primarily reviews the constitutionality of administrative action, especially in cases where administrative action encroaches on basic rights of the citizenry. (O. Tseveen & B. Ganbold 2006).

Prosecutors are appointed by the General Prosecutor, who is in turn appointed by the President in consultation with the Mongolian Parliament. Prosecutors approve and supervise investigations undertaken by the Police (in civil and criminal cases), Customs, and other administrative agencies to assure that the investigations are carried out according to law. Investigations must be registered with the General Prosecutor's Office [GPO], and must be completed within two weeks. Prosecutors represent the state in civil and criminal proceedings. In addition, they can participate in civil cases in which the state is not a party, and appeal decisions in cases in which the state has not appeared, if the prosecutor believes the decision is contrary to law.

Judicial decisions are not considered precedent in Mongolia—that is, they are not binding on subsequent cases, and they are not treated as a source of law. Nevertheless, there are an increasing number of resources available for tracking judicial decisions. The National Legal Center [NLC] was established within the Ministry of Justice and Home Affairs [MOJHA] to research justice sector institutions, support the systematization and harmonization of laws, and conduct professional training for legal professionals, civil servants, and members of civil society. Recently, MOJHA, through the NLC, established the Unified Legal and Judicial Information Network [UIN], which publishes laws and court decisions on two separate websites. The first, *Legalinfo* ([www.legalinfo.mn](http://www.legalinfo.mn)), publishes Mongolian laws, presidential decrees, parliamentary resolutions, ministerial orders, administrative resolutions, and local aimag resolutions, international treaties, and commentaries authored by justices of the Supreme Court. A second website, *Judgeinfo* ([www.judgeinfo.mn](http://www.judgeinfo.mn)), is maintained by the General Council of Courts [GCC], and uses information entered into USAID-funded national case management software to organize information about the structure and location of courts, as well as GCC decisions and resolutions, Supreme Court

commentaries and decisions. Using *Judgeinfo*, members of the public can search a database of criminal, civil, and administrative cases.

In practice, the number of case decisions reported lags behind the information technology resources available to publicize them. Supreme Court and Constitutional Court decisions are published to the UIN websites, but there are no direct links between regional aimag courts, or between these courts and the Supreme Court. Court archives are not centralized, and are not accessible to the public. Each court maintains its own records according to its own filing preferences. The USAID-funded Judicial Reform Project recently completed the development and testing of automated case tracking and caseload management software. This software, called *Judge2008*, will enable the courts to manage their caseload and generate reports. The *Judge2008* system, however, has been installed on a court-by-court basis in local and aimag courts, and is not currently networked to allow for the electronic transfer of court decisions to a central databank. According to a World Bank report, legislation enacted in January 2008 requires that all civil court records prior to 2007 be transported to the Supreme Court archives, which current records to be transferred to the Supreme Court at the end of each calendar year. The Supreme Court, however, lacks the physical space and software capacity to process the records subject to transfer (World Bank 2008).

## 4.4 Civil litigation

Mongolian law provides only a very limited basis for protecting wildlife through civil litigation—that is, through suits brought by private citizens or environmental NGOs. The Mongolian Law on Environmental Protection, Article 37.2, provides that “citizens, economic entities, and/or organizations may file suit in court against a violator requiring compensation for expenditures incurred as a result of restoring destroyed ecological balance and natural resources, evacuation of people, and moving wildlife and livestock.” To win compensation, however, a party would have to show that they had rights or entitlements to the wildlife illegally taken by another. The Mongolian Constitution (§ 6.2) and the Mongolian Law on Fauna establish that wild animals are the property of the state, and that the state has the sole authority and responsibility for enforcement. As a consequence, there the legal basis for private citizens or organizations to bring suit against other citizens for hunting or trading wildlife illegally may be quite limited.

Simply purchasing a hunting license does not convey a property interest in wildlife on an individual, but there are certainly arguments that could be made in a test case against the relevant authorities for failing to carry out hunting management as legally required. Industrial entities who establish contracts with local governments for industrial purpose hunting, or sport hunting outfitters or tour operators who depend on access to fish or game species, might have at least a plausible claim for damages caused by government neglect of hunting management responsibilities.

Clarifying the rights of citizens to bring suit to enforce hunting management legislation is especially timely, given recent legal changes that allow local community groups—called *nokhrolol*—to take on joint responsibilities for natural resource management through multi-year contracts with local government. Pursuant to 2005 amendments to the Mongolian Law on Environmental Protection [MLEP § 31<sup>1</sup>], the Mongolian the Ministry of Nature, Environment and Tourism issued Order #114, which spells out the rights and duties of *nokhrolol* groups. This new regulation has been hailed as an encouraging first step towards community-based natural resource management in Mongolia, and several *nokhrolol* contracts have been established to date. With regards to illegal hunting,

Order #114 delegates many management responsibilities to the *nokhrolol* groups—for example, determining maximum sustainable hunting quotas, monitoring hunting activities within the permitted seasons, controlling the use of damaging equipment, and taking part in any culling necessary to protect the health of wild and human populations. (MNET Order 114 § 5) At the same time, however, Order #114 does not explicitly authorize *nokhrolols* to exclude outside hunters, and it does not appear to give them any property interest in wildlife. As such, it is unclear whether *nokhrolol* groups would have any enhanced ability to seek compensation for illegal hunting through civil litigation.

NGOs interested in finding ways for citizens and non-governmental entities to compel the government to better enforce wildlife trade regulation should pay close attention to the legal developments occurring in other areas of environmental law, particularly with regard to mining and water rights. In recent years, Mongolian human rights lawyers working at the Center for Human Rights and Development [CHRD] have had some success in finding ways for NGOs and private citizens to participate in the enforcement of environmental laws. CHRD lawyers have focused primarily on the environmental impacts of mining, from damages claims for a company's failure to restore a mine site, to procedural challenges to a mining permit, to efforts to vacate a mining license granted for a strictly protected area. Their strategy has been to work with affected citizens in mining areas to document their claims, and then to submit these claims to the State Investigation Police and the State Prosecutor's Office. CHRD monitors the claims after they are turned over to the prosecutor and, in turn, to the court. Where CHRD believes that claims have been dismissed or denied for an improper purpose, the CHRD lawyers have petitioned to have cases reopened or reinitiated. A similar strategy could be as effective for wildlife as for mining.



## 5.0 LESSONS LEARNED FROM ENFORCEMENT

Having described the market and transportation networks of the wildlife trade, the laws governing it, and the structure of the various government agencies charged with enforcing those laws, we can now turn to some analysis of how Mongolia's existing wildlife trade enforcement structure functions in practice, based on recent cases of observed trade and coordinated enforcement.

As discussed earlier, to remedy the lack of information about how and where the illegal trade is occurring, the Wildlife Conservation Society [WCS] began in late 2007 to organize teams of university students to conduct regular observations in the markets, restaurants, retail stores, and hospitals of Ulaanbaatar. Between December 2007 and February 2008, teams of WCS staff and municipal inspectors, together with consultants and university student members of the "Ecology Knowledge" club, conducted comprehensive surveys of Ulaanbaatar markets in order to quantify the levels and types of wildlife trade, as well as to map the city's wildlife trade chain (Parkinson et al. 2008). The survey teams monitored newspapers and other media outlets for advertisements related to the wildlife trade. Altogether, they completed 160 investigations, surveying twice per week in raw materials and food markets; once per week in restaurants and souvenir shops; and once every ten days in hospitals. During the "ride-alongs" with student teams and officials, environmental inspectors confiscated items in eight cases; issued warnings in six cases; and pursued a criminal prosecution in one case.

Next, to address complaints about the lack of coordination between the various government agencies tasked with enforcing wildlife trade laws, WCS facilitated the formation of a multi-agency Wildlife Trade Crimes Unit [WCTU] in late 2008 to conduct joint inspections in markets, retail stores, restaurants, and *tovchoo* (road checkpoints) in and around Ulaanbaatar. The WCTU included policy officers from the MNET, a member of Mongolia's CITES Management Authority, as well as representatives of the environmental branches of the National Police and the State Specialized Inspection Agency [SSIA]. A pilot program in September 2008 investigated hunting incidents in and around Ulaanbaatar during peak marmot season. Next, the team agreed to conduct a total of eighteen pilot patrols and inspections in December 2008 and January 2009.

### ***Summary of enforcement actions by multi-agency WTCU team, 2008-2009***

DATE	LOCATION	PARTICIPANTS	WILDLIFE CONFISCATED	PENALTIES
<b>12 DEC 2008</b>	Altai Chandmani market (Nalaikh); UB Tsaiz market; Narantuul food market	SSIA (2) MNET-CITES (1) Police (2) WCS (1)	Red fox (4) *same as 200 in 2008	25,000 MNT fine to market owner (repeat offender)
<b>17 DEC 2008</b>	Emeelt market; Mercury market; Guntiin Davaa tovchoo	MSIA (1) Airport (1) Police (2) WCS (1)	Grey wolf skin (3) Marmot (1)	Issued warning letter and poster about illegal hunting
<b>19 DEC 2008</b>	UB Tsaiz market			
<b>26 DEC 2008</b>	Chinggis Restaurant; State Dept. Store; Flower Center	SSIA (2) Police; WCS	Lynx skin (1) Red fox skin (7) Corsac fox skin (2) Snow leopard skin (1) Brown bear skin (1) Red deer horn (2) Argali horn (1)  <i>Detected, but not confiscated:</i> Red fox jacket, hat Lynx jacket, seats	n/a
Published mainly in <i>Shuurkhai Zar</i> and <i>Zar Medee</i>				
(Source: Parkinson et al. 2008)				

Drawing on the inspection reports drafted by the WCS student teams and the WCTU participants, this section highlights some of the key insights and lessons learned about the ways in which wildlife trade laws are being implemented in Ulaanbaatar. In addition, this section will draw on a sample of criminal cases decided in aimag courts, collected by the National Legal Center, as well as the findings of the a working group from the Ministry of Nature, Environment, and Tourism [MNET], presented to the Mongolian Parliament in 2006 with regards to proposed amendments to the Mongolian Criminal Code (MNET Working Group 2006). These “lessons learned” will help to inform the recommendations, introduced in the next section, for further improving the wildlife trade enforcement system in Ulaanbaatar.

## **5.1 Criminal convictions under MCC § 203**

Based on a comparison of the preliminary data available from different official sources, it is clear that data on convictions for wildlife crimes under the Mongolian Criminal Code tend to be fairly erratic. In their presentation to the Mongolian Parliament in 2006, a working group from the Ministry of Nature, Environment, and Tourism [MNET] reported that, according to records from the State Specialized Inspection Agency [SSIA], convictions have been made in about twenty cases of illegal hunting in violation of the Criminal Code and the Law on Hunting since the time that those laws were passed (MNET Working Group 2006). By contrast, the National Legal Center [NLC], for

### ***Criminal Convictions for Illegal Hunting, Nationwide (1999-2003)***

YEAR	CRIMINAL INCIDENTS	PERSONS CONVICTED	PERSONS FINED	PERSONS IMPRISONED	(SENTENCES SUSPENDED)
1999	34	84	-	-	-
2000	16	29	-	-	-
2001	25	42	11	31	(26)
2002	26	42	10	31	(23)
2003	15	22	1	21	(13)

example, reports a total of 116 convictions involving wildlife crimes between 1999 and 2003. According to the NLC, the number of criminal

incidents involving illegal hunting fluctuated between 15 and 34, annually. The number of wildlife crime convictions is much lower than the number officially recorded or registered by the National Police, the NLC reports, because these crimes were “deleted” or “not adjudged.” For example, the National Police recorded 83 crimes in 2002, of which 26 resulted in convictions; 35 were recorded in 2003, of which 15 convictions resulted.

As of yet, the NLC does not have comprehensive court records from all of the aimag center courts. The NLC was able to provide us with a sampling of wildlife-related criminal cases from 2000-2007, drawn from the records of Selenge, Dundgovi, Bulgan, Omnogovi, Zavkhan, and Dornogovi aimags. From this sample, it is possible to see some variation in the ways wildlife crimes are prosecuted in different aimags. Most of the reported convictions involved Red deer (*Cervus elaphus*) or Siberian ibex (*Capra sibirica*), with fourteen convictions involving Red deer, and six involving ibex in the six aimags. Both ibex and red deer are classified as rare species under the Mongolian Law on Fauna. Every incident involving those species was prosecuted under MCC § 203.1, or its predecessor provision, MCC § 188.2, which (until it was amended in February 2008) allowed for imprisonment for a minimum of 3 to 6 months and a maximum of three years for hunting “endangered species.”

There appears to be some variation between aimags in the length of sentences imposed, although the records are sufficiently limited that it is impossible to tell how significant this variation is. According to the available data from the NLC, the average sentence for illegally hunting a Red deer ranged from 21 months in Bulgan aimag, to 15 months in Uvs aimag. Sentences involving ibex (also a rare species) were lower: of the six convictions involving illegally hunted ibex, the average sentence was 11.5 months. Meanwhile, in Selenge aimag, 75% of cases (n=12) involving wildlife crimes resulted in probation, or suspended sentences, while in Bulgan aimag, this proportion was closer to 50%. All of the sentences imposed, however, were within the range allowed by MCC § 203.

Interestingly, from all six aimags, there was only one reported conviction for hunting a very rare animal under MCC § 203.2, the provision of the Mongolian Criminal Code that (until it was revised in February 2008) allowed for imprisonment of up to 5 years with confiscation of property for the hunting or illegal export of very rare species. In that case, two individuals hunted a musk deer (*Moschus moschiferus*) in Bulgan aimag in May 2003, and were sentenced to three years and three months in prison under § 203.2. By contrast, in another case decided in Uvs aimag in June 2003, an individual convicted of illegally hunting a snow leopard (*Uncia uncia*) was sentenced to only one year of probation, under MCC § 188.2 (an earlier version of § 203.1). Both the musk deer and the snow leopard are listed as very rare animals under the Mongolian Law on Fauna, but only the musk deer incident was prosecuted under § 203.2.

## **5.2 Criminal penalties for illegal trade and export**

Of the 40 convictions reported from six aimags between 2000 and 2007, 39 involved incidents of illegal hunting; only one was a criminal conviction for the illegal trade of wildlife. In comments provided to the MNET's Working Group on revisions of the Mongolian Criminal Code in 2006, the National Police reported that since 2004, they had intercepted parties selling musk deer pods, red deer penis, tail, uterus, and other products, the Criminal Code does not apply in these matters, presumably because they involved trading activity, not illegal hunting (MNET Working Group Report 2006). Another case, detailed in the records of the SSIA and the National Police, is even more troubling. According to those records, an inspection made at the home of a foreign citizen on February 7, 2006 revealed 48 red deer (doe) tails, 20 red deer penises, 20 red deer blood antlers, four red deer uteruses, eight bear paws, six bear gallbladders, one bear liver, 14 squirrel skins, one dog skin, one wild boar liver, and one piece of Altai snowcock meat. According to the ecological assessment value of those animals, the loss represented 153,400,000 MNT. But in that case, prosecuted according to section 27.1.3 of the Mongolian Law on Fauna, which prescribes fines for "causing a decline in the numbers of rare fauna or destroying their habitat or trading in their hides, fur, and other parts," a fine of only 50,000 MNT was imposed (MNET Working Group 2006). The 50,000 MNT fine is the maximum that can be imposed for a violation under 27.1.3. Presumably, the wildlife trader could not be required to reimburse the state for the damage caused to the fauna under section 25 of the Mongolian Law on Fauna because merely possessing wildlife did not constitute a "violation of the legislation on fauna." MLF § 25.1

A WCS student team encountered a similar case during a "ride-along" with environmental inspectors in January 2008. During the joint patrol at Tsaiz market, 200 red fox skins were confiscated. The minimum ecological assessment value for a red fox is 80,000 MNT, which—when doubled under MLF § 25.2—would result in a fine of 32,000,000 MNT if the skins had been confiscated from an illegal hunter. Instead, the skins were confiscated and a fine of 25,000 MNT was imposed. Although the legal provision justifying this penalty is unknown, one might conclude that fines under MLF § 25.2 were not imposed because the skins were not confiscated directly from the illegal hunter.

Even if our explanations for the inspectors' decision to impose, or not to impose, fines under MLF § 25 in these cases are accurate, there seems to be some flexibility in how this rule is interpreted and applied. For example, several months after the WCS student teams encountered the 200 fox skins in Tsaiz market, the multi-agency WTCU pilot patrols intercepted the trade of several wildlife species at Emeelt market. Specifically, on December 4, 2008, the WTCU team intercepted Red fox, Corsac fox, Tolai hare, and Grey wolf skins; Siberian marmot skin, oil, and meat; Brown bear oil; eagle feathers; and horn from an unidentified species. The fine imposed—703,000 MNT—dwarfs the fine imposed in the January 2008 Tsaiz inspection. According to the WTCU team report, the law violated in this case was that none of the traders could provide certificates of origin for any of the wildlife in their possession (presumably a violation of section 15<sup>1</sup>.1.1 of the Mongolian Law on Hunting, enacted in 2002).

## **5.3 Relationship between criminal and civil fines**

Under the terms of MCC § 203.1, every hunting incident involving a species like Red deer or ibex would be punishable as a crime. In many cases involving criminal penalties, civil fines were also imposed under the Law on Fauna § 25, which authorizes the assessment of a fine (equal to double



the ecological value of the animal) for losses to fauna resulting from a violation of wildlife protection legislation.

For example, in a case decided by the aimag court in Dornogovi aimag in 2007, a Mongolian citizen who hunted a *khulan* (Asiatic wild ass) in April 2007 and sold 10 kg of its meat in the local market for 8,000 MNT. The defendant was sentenced to 3 months and five days' imprisonment under the Criminal Code § 203.1, and fined 2,000,000 MNT—two times the ecological assessment value for a male *khulan*—as provided in the Law on Fauna §§ 25.1 and 25.2. The Russian gun he used to hunt the *khulan* was confiscated under the Law on Hunting § 16.3 (authorizing environmental inspectors to confiscate weapons, animals, and their byproducts from individuals responsible for illegal hunting).

In another case reported from Omnogovi aimag, a group of men killed a Mongolian gazelle in early January 2007 by running it down with their car; they skinned the animal and gave the meat to a friend. The gazelle had been hunted out of season (September 1-December 1), and so under MLF § 25.2 the court fined the responsible individuals 80,000 MNT, or twice the ecological and economic assessment value for a Mongolian gazelle (set at 40,000 MNT per gazelle). In this case, one-year prison sentences were also imposed on the defendants under MCC § 203.1.

While criminal penalties are often accompanied by fines under MLF § 25.1, the NLC reports that many of incidents that would otherwise qualify for prosecution under MCC § 203.1 are punished only with administrative fines. In Khuvsgul aimag, for example, there were 169 cases of poached Red deer registered between 1994 and 2003, with total fines of 19.3 million MNT collected; none of those incidents was prosecuted under MCC § 203.1.

Once a court issues its judgment, enforcement of that judgment further suffers from insufficient staffing and budget limitations. The Court Enforcement Agency [CEA] is the executive branch agency charged with ensuring that court judgments are carried out. In 2007, for example, the CEA was assigned a total of 51,154 civil, criminal, and administrative judgments to enforce. Approximately 25,000 of those cases were civil judgments, involving only fines. The CEA, however, carried out only 12,581, or about half, of those judgments. According to the World Bank, a lack of human and institutional resources leads the CEA to enforce only “the highest and most visible judgments.” (World Bank 2008). As of 2007, Bulgan Aimag had only five court enforcement agents assigned to serve a population of 60,000 spread over an area of 48,000 km<sup>2</sup>, with no budget for transportation or communication equipment (World Bank 2008).

## 5.4 Ecological assessment values

There has been widespread concern about the effectiveness of levying fines based on their economic and ecological assessment value, as established by the “List of Rare Animals and Wild Animal Ecology-Economic Valuation,” Regulation #248, revised in December 2005. Generally speaking, these species valuations do not conform to their endangered status. For example, the economic value of the male snow leopard—listed as very rare in the Law on Fauna—has been set at 4,000,000 MNT, while the male argali sheep—listed as rare in the Law on Fauna—is valued much higher, at 9,000,000 MNT (McCarthy & Chapron 2003).

The difference between the government's valuation of a species and its market value can be quite substantial. The WCS student teams detected a snow leopard skin for sale in Ulaanbaatar in 2008, with the vendor asking from 800,000 to 1,200,000 MNT, only a quarter of the ecological value set

for that species (Parkinson et al. 2008). This difference becomes even more substantial in light of § 25 of the Mongolian Law on Fauna, which establishes the penalty for “causing losses to fauna” in the course of violating wildlife protect laws as twice the economic value of the species killed.

## 5.5 Corruption and inter-agency coordination

The experience of the WCS student “ride-alongs” with environmental inspectors in early 2008, and the multi-agency WTCU joint patrols several months later reveals that corruption is a major obstacle to effective enforcement in Ulaanbaatar. Examples drawn from the patrol reports suggest that mid-level inspectors are subject to pressure from the individuals inspected. During one ride-along with Police and Municipal SIA inspectors in January 2008, WCS student team members encountered a wildlife trader at Tsaiz market in possession of two whole wolves, eight red fox skins, and two wolf skins. The trader accused the policemen and inspectors of harassing her for a bribe, and claimed that they would probably return the wildlife after being paid. Meanwhile, the owner of Tsaiz market, who had also been fined, attempted to intimidate the patrol team. She followed the enforcement teams in a sport utility vehicle as far as the Municipal SIA office. She called the head of the Division at the Municipal SIA demanding the return of the skins. Members of the team reported receiving threatening phone calls after this enforcement event (Parkinson et al. 2008).

On another occasion, the enforcement team was pressured by a more senior government official to abandon their enforcement effort. In December 2008, a joint patrol by the Municipal SIA and the WTCU team attempted to confiscate snow leopard and brown bear pelts on display in the “Wool Aroc” bar. The team reported that they were “pressured into reversing their decision” by a colonel from the Traffic Police Department, who may have been the owner of the wildlife parts. The enforcement action was dropped.

Officially speaking, prosecutors are supposed to supervise the police from the moment they begin their investigation of a crime. In practice, according to USAID Judicial Reform Project director Garry Ledbetter, the police and prosecutors are not working well together. For example, police are supposed get arrest and search warrants by going to prosecutors, but they usually avoid doing so by claiming exigent circumstances. The overlap in powers and responsibility between the SSIA and the National Police Agency has been the source of some conflict over what role each agency should play in enforcing wildlife trade laws.

In spite of these measures, in 2007, both the Police and the SSIA gave us mixed reports about cooperation. Lt. Col. Erdenebayar observed that the SSIA is usually reluctant to turn over information about violations, even when they are substantial enough to warrant criminal prosecution. Critics of the Police department, on the other hand, complained that the department was corrupt, slow to respond, or lacks expertise in the environmental area. As the Police department reorganizes to establish a special unit for environmental crimes, these complaints may subside. Meanwhile, some agencies are jockeying to end the Police department’s exclusive powers over criminal investigation. For example, the Customs General Administration—which lost its authority to investigate criminal cases in 2002—is seeking legislative amendments that would authorize a criminal investigators program within Customs, and a specialized office to combat wildlife offenses.<sup>7</sup>

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<sup>7</sup> See FWS/Mongolian Training-After Action Report, at 10.

## 5.6 Enforcement of the Law on Advertising

As the WCS Student Survey Team confirmed, newspaper advertisements are a major channel for the wildlife trade in Ulaanbaatar. Between December 2007 and February 2009, the team detected advertisements for a wide range of wildlife products, primarily in *Shuurkhai Zar* and *Zar Medee*. Nearly one-third of the team's observations of traded wolf products were observed in newspaper advertisements. Game birds, including Altai snowcock (*Tetraogallus altaicus*) and ptarmigan (*Lagopus lagopus*) are traded primarily by newspaper advertisement. Other species advertised included marmot (meat, oil, organs, and furs), corsac fox, red fox, Brown bear, Eurasian badger, and Red deer (Parkinson et al. 2008).

Municipal government inspectors, like Ms. Badamkhand of the Municipal Specialized Inspection Agency, have been making significant efforts to enforce this law.

There appears to be some reluctance to impose fines for violations of the Law on Advertising based on evidence of advertising alone, and lacking proof that an actual sale had taken place. On December 29, 2008, for example, members of the multi-agency WTCU contacted individuals who had placed ads for the sale of different species of wildlife. In each case, the wildlife was reported to be sold and no longer available. Curiously, the team found that no legal action could be taken against these individuals because no evidence of actual sale could be found, despite the clear language of the Mongolian Law on Advertising § 14, which simply prohibits advertising for the sale or purchase of wildlife.

## 5.7 Additional lessons learned

- **Penalizing market owners *and* traders.** As WCS staff discovered while participating in a joint patrol with Police and SSIA officials, both traders and market owners can be subject to fines for illegal wildlife trade activity. Two hundred illegally hunted fox skins were detected at Tsaiz market in January 2008; the offenders were fined 25,000 MNT under the Mongolian Law on Hunting, and the market owner was fined 250,000 MNT, although the legal provision justifying that fine was not specified (Parkinson et al. 2008).
- **Disadvantage of specialized units.** Having police units dedicated specifically to work on environmental crimes should not have the effect of relieving other units from monitoring and enforcing environmental crimes. For example, while accompanying members of the Inspection and Monitoring Unit 805 of the National Police on an inspection patrol in the Narantuul Market, WCS student teams encountered six dealers openly selling a lynx coat, and skins of beech marten, Red fox, Corsac fox, Siberian ibex, and steppe polecat, in an area right in front of a police post (Parkinson et al. 2008). The proximity of the police post evidently did not deter the traders, as the police did not undertake any wildlife trade enforcement.



## 6.0 STRATEGIES FOR IMPROVED ENFORCEMENT

Generally speaking, the initial progress in improving wildlife trade enforcement practices in recent months has been significant. Several teams of university students have been trained to identify wildlife parts in markets, restaurants, and hospitals. The multiple government agencies, operating with interdependent and in some cases, overlapping responsibilities for enforcement of wildlife trade laws, have successfully completed at least one season of joint enforcement patrols. Judicial reform projects have made important strides toward the eventual goal of assembling and publishing administrative regulations and court cases from across the country. These are positive steps, in part because they have helped to improve our understanding of the ways the wildlife trade—and, importantly, the wildlife trade enforcement system—actually works. As the previous section’s discussion indicates, many of the “lessons learned” from this experience actually raise more questions than they answer.

### 6.1 Near-term strategies

#### 6.1.1 Market surveys

As the

As soon as possible (before the 2007 hunting season gets underway), WCS should set up an informal system for surveying wildlife trade in the raw materials around Ulaanbaatar. The purpose of these market surveys is not just to quantify the trade or identify the most active traders, markets, and transportation routes—as the surveys for the Silent Steppe report aimed to do—but to give WCS an independent channel to collect information about trade violations and to identify the strengths and weaknesses of the existing enforcement system.

With some modifications, some of the Vientiane survey methods would be a good model for an Ulaanbaatar market survey. The Vientiane surveys utilized university students and teams of municipal officials, conducting random visits to markets, restaurants, and the airport during one or two month periods.

#### 6.1.2 WCS staff/student “ride-alongs” with enforcement officials

In order to build relationships with enforcement officials and get a better understanding of the problems of enforcement, WCS should send a WCS staff member plus a university student during this year’s hunting season to “ride along” on patrols and observe judicial proceedings. “Ride-

alongside” could be arranged with the SSIA’s Ulaanbaatar Anti-Poaching Unit; with the UB-Municipal SSIA’s inspectors working at the eastern or western Tovchoo; with the Customs officials working at the Buyant-Uhaa Airport Customs facility; with the Police unit being organized to investigate wildlife crime; with regular police units working at the Tovchoo, the major raw materials markets, the train station, etc. WCS should also try to develop a relationship with the State Prosecutor’s office (through the USAID-Judicial Reform Project contacts, for example) to find out about opportunities for staff to observe investigation of wildlife crime, or related judicial proceedings. WCS should also contact local courts to get advance notice/find out how to access the court docket so that WCS staff/students can observe in the courtroom when wildlife crimes are tried.

WCS staff/students should write up a brief report after each “ride-along,” or observation event, detailing the species and quantity of wildlife seized, and the scope enforcement activities. How did the agency get information about the alleged violation? How often are patrols undertaken? How much does a patrol cost? What kind of training have the enforcement officials had? Was there undercover work or surveillance involved? Did the agent examine luggage or vehicles, containers or storage areas? What was the agent’s understanding of their legal powers to search and seize wildlife? Were items confiscated? Were other agencies notified? What did the agent do with any confiscated materials? Did the agent inspect papers, and if so, what kinds—hunting licenses? import permission? gun license? etc.

## **6.2 Legislation development**

### **6.2.1 Gap analysis, alternative legislative bodies**

Consequently, WCS staff should review the Gap Analysis formulated by Wingard & Odgerel, and assess whether any of the amendments proposed therein could be enacted by alternative lawmaking bodies—for example, by resolution of the National Police Agency or the Ministry of Nature, Environment, and Tourism, or by regulations passed at the municipal level by the Ulaanbaatar city Khural (council). The advantages of pursuing the legislative agenda at a “lower” level are that it may be easier to get legislation passed, and easier to update or change legislation once it’s been enacted. The process of pursuing legislative changes may also enable WCS to cultivate new allies in agencies or government bodies it has not worked with before.

Potential legal changes to pursue include: 1) Restricting the trade of wildlife to specific markets or places within markets (UB city Khural); and 2) Protocol for storage/disposal of confiscated wildlife and other evidence (National Police Agency; SSIA). It is worth inquiring of Mongolian legal experts whether it is possible for an aimag or municipal *khural* to pass legislation that is more restrictive than laws passed by the national Parliament. If it is possible, or at the very least unresolved, then WCS should consider experimenting with legislation that closes the “possession loophole” (prohibiting or criminalizing the possession of wildlife without proof that the animal was legally hunted) in the Ulaanbaatar *khural*. A successful trial of this kind of legislation on the city-wide level will speed passage of national legislation at a later time.

## **6.3 Public awareness**

There is a growing base of information available for use in developing public awareness materials. For example, the National Legal Center has published a series of books to publicize the requirements of environmental laws. These books summarize criminal cases, laws and decisions, including those involving very rare animals, how many cases are recorded and what happened, when they went to court, what kind of penalty was imposed. The books also include sections of

interest to foreigners, Mongolian hunters, and wildlife traders, to notify them where they can obtain hunting and trade licenses. These books are to be sold at entry places for tourists, at the immigration office, at book shops, and at the National Legal Center.

### **6.3.1 Mongolians**

There are a variety of ways WCS can reach Mongolian audiences with messages about the importance of conservation or the legal consequences of hunting or trading wildlife products. Obviously, the best way to do this is by generating free publicity—that is, by inviting press coverage of trials or enforcement events—and to enlist new allies in the process by getting unexpected groups involved.

Mongolian audiences have come to expect environmental NGOs, scientists, and government officials to appear before the television cameras and radio microphones, stressing the importance of conserving wildlife and halting the illegal wildlife trade. The message may become more interesting and compelling when it comes from unexpected sources, in unexpected forms. For example:

- The State Department store and the Sky shopping center both have sections in their souvenir department dedicated to wildlife products—mostly fur pelts and jackets. A good percentage of their inventory appears to be imported from China or Korea, but there are wolf skins, marmot coats, and other products that are almost definitely Mongolian in origin. WCS should negotiate with these prominent retailers to stop selling Mongolian fur products, or to sell them in a way that promotes compliance with Mongolian law, and/or raises awareness about the wildlife trade problem. Positive media coverage could be a good bargaining chip in these negotiations. For example, WCS could ask top officials at the State Department store or Sky to sign a pledge not to sell Mongolian wildlife products so long as regulations are poorly enforced. Alternatively, WCS could petition the stores to post signs and distribute pamphlets to buyers of CITES-listed products (ie. wolf pelts) that advise them how to legally export the products from Mongolia. A strategy that works with the State Department store could then be targeted towards other fur-sellers, antique shops, restaurants that use wildlife products in their décor, etc. should get a meeting with the head of the
- Many tourists travel to the Mongolian countryside expecting to see wildlife. Contact the CEOs of prominent tourist companies, and meet with them to see whether they are concerned about the consequences of over-hunting for the tourism business. Ask the company directors to host a press conference and talk about the importance of wildlife for tourism; the importance of tourism for Mongolia's economy; and the need to crack down on the illegal wildlife trade. See 6.3.2, below.

The Museum of Natural History is prominent landmark in Ulaanbaatar, visited by tourists and Mongolians alike. Contact the head of the Museum, and see whether the museum would be receptive to including an exhibit on the effects of over-hunting in modern Mongolia. Environmental NGOs could fund the exhibit, or help the Museum find funding (e.g. by selling tickets to a reception for the opening of the exhibit). The exhibit could include some of the confiscated wildlife products that are turned over to the Museum by SSIA, etc. Such an exhibit would provide a good opportunity for press coverage, which would hopefully boost the visits to the museum (for example, during the winter off-season). Lessons for schoolchildren about the exhibit could be developed and distributed, and schools could be encouraged to take field trips to the museum (possibly by subsidizing ticket costs).

The Vientiane project included public burnings of confiscated wildlife, presided over by Buddhist monks. This kind of event works well for several reasons: its dramatic nature attracts attention; and it simultaneously conveys information about the wastefulness of illegal hunting, the continuing power of Mongolia's (Buddhist) conservation traditions, and the transparency/effectiveness of government enforcement. WCS should speak with SSIA officials (Mr. Badam) about the possibility of staging a similar public burning during this winter's hunting season. Even if the SSIA is reluctant, WCS should contact religious leaders (e.g., at Gandan Monastery) about hosting a public prayer session or some kind of religious ceremony at one of the major markets, for example, with appropriate media coverage.

\*\*\*WWF "Bi Horokhgui" commercials. <http://www.youtube.com/watch?v=hIrOVyFKCwY>

Nomin sells wildlife productions despite participation in the WWF campaign to stop the illegal wildlife trade.

### **6.3.2 Tourists & tour operators**

A public awareness strategy directed at foreign visitors should take advantage of the natural concentrations of tourists in Ulaanbaatar, and during the summer months. Most tourists visit Mongolia during a period of about 100 days in the summer, and almost all spend at least one night in Ulaanbaatar (GTZ 2003). There are a number of ways to get information out to tourists. WCS could print up a special map for tourists, which would include landmarks of interest in Ulaanbaatar as well as the location of government offices where hunting and fishing licenses and export permits can be obtained, and a summary of the permission required for export of popular species (ie., grey wolf). WCS staff or university students could staff a booth at the national Naadam celebration, at the Museum of Natural History, or on Peace Avenue/near the State Department Store during peak tourist season, to publicize the wildlife trade problem, and to distribute information about how to obtain a permit.

The process of developing a PR campaign for tourists presents a great opportunity for WCS to educate tour operators about the permitting process and other aspects of the legal regime for wildlife protection. WCS should partner with the tourist operators to provide them with printed materials or website links with a summary of laws governing hunting, fishing, and wildlife export in various languages. If time and resources are available, it would be great to do this in the context of a conference or public meeting, perhaps next spring before the tourist season gets underway.

This will also present an opportunity for WCS to build relationships with tour operators. Tour operators are a key constituency on the wildlife issue, because wildlife is an important draw for tourists/tourism impacts wildlife, and because tourism is understood to be an important sector for Mongolia's economic growth. In the past few years, tour operators have lobbied for legislation that could have a great impact on conservation. For example, fishing outfitters have supported laws that would give them exclusive rights to use designated stretches of rivers and streams. As WCS pursues amendments to the hunting law, it would be advantageous to have the vocal support of influential tour operators for these legislative changes.

## **6.4 Judicial reform**

### **6.4.1 Research enforcement and adjudication of wildlife crimes**



The Gap Analysis completed by Wingard and Odgerel is an important step towards understanding the strengths and weaknesses of Mongolia's wildlife protection laws, taken as a whole. A complementary research project should be undertaken by a Mongolian lawyer or legal specialist to identify the strengths and weaknesses of the enforcement and adjudication of wildlife crimes. Possible research questions include:

- *How are Mongolian judges and enforcement personnel applying and interpreting existing wildlife-related laws?* This type of research will help WCS to prioritize among the proposed amendments on its legislative agenda.
- Are there *general issues*—*procedural* (how cases are prosecuted), or *jurisdictional* (which courts can hear wildlife crime cases), for example—that are not related to wildlife on their face, but *that prevent courts from disciplining illegal hunters*? For example, according to the National Police Agency, the laws governing specific jurisdiction are vague with regard to natural resource crimes occurring on private- and state-owned lands. The FWS/TRAFFIC team reported in November 2006, “NPA investigates these cases, but they can be difficult to prosecute due to a lack of state representation. The problem is: who represents the state, and who is the victim?”<sup>8</sup> Such questions of standing to bring suit may not come up in a survey of the wildlife-related laws, but they are very important to getting successful convictions in wildlife crime cases.
- **Inter-court comparisons.** Compare the rates of convictions, the penalties imposed, etc. by courts in different parts of the country, or lower (*soum*) courts versus *aimag* or municipal courts. If it turns out that aimag courts have greater capacity to adjudicate wildlife crimes, WCS may want to pursue appropriate action (ie., legislation) to ensure that wildlife crime prosecutions are automatically transferred to aimag or higher courts (ie., limit jurisdiction over MCC § 203 to aimag courts).
- **Profiles of individual cases.** The research could track specific cases in detail, supplemented by interviews with prosecutors about their experiences in bringing these cases.

This kind of research project could be done by law professors and/or advanced law students, or by the National Legal Center, which takes on legal research subcontracts (although WCS should follow up with the NLC at the end of October to get a copy of the report on hunting laws that they will be issuing—it may already contain much of the research that is needed). Findings could be condensed into a handbook or report framed as “common issues” or “frequently asked questions” about wildlife crime, along with model case decisions. These handbooks could be distributed to prosecutors and judges nationwide—perhaps at a conference on environmental crime—as a means to improve (and standardize) the adjudication of wildlife crime.

## 6.4.2 Monitoring litigation

As discussed in 4.4, above, WCS should meet with lawyers from the Center for Human Rights and Development [CHRD] and any other appropriate public interest law organization to develop a strategy for monitoring wildlife crime prosecutions. Just as CHRD monitors claims and petitions to have cases reopened or reinitiated in mining cases, they may be able to work on (or recommend skilled advocates to work on) monitoring and “watch-dogging” wildlife-related crimes. The research project outlined in 6.4.1 could be a great way to identify cases to watch.

## 6.4.3 Expert witnesses & forensic support

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<sup>8</sup> FWS/Mongolian Training-After Action Report, at 13.

The National Police Agency reports that they have had difficulty in prosecuting wildlife crimes, particularly because they lack expertise and resources to assess damage to natural resources. Evidentiary problems have also been cited by the SSIA as barriers to prosecution, specifically in connection to the November 2006 case of 54 saiga illegally hunted in Govi-Altai aimag. Apparently, the thirteen defendants in that case attempted to defeat the claims against them by claiming that the saiga horns discovered in their possession were hunted many years earlier, and thus were not taken in violation of current hunting laws.

WCS could play a coordinating role in helping police and prosecutors identify wildlife biologists and other scientists who could provide forensic support in investigations of wildlife crime or serve as expert witnesses in criminal proceedings. Given the limited scope of criminal liability for the hunting and trade of wildlife products, one would expect that there would be infrequent demand for expert and forensic services. WCS might consider funding these types of services on a trial basis, where limited government budgets would otherwise prevent prosecutors and police investigators from seeking expert advice. The US-Fish and Wildlife Service might be another possible sponsor or resource, given that US-FWS operates a forensic laboratory in the Ashland, Oregon (U.S.) dedicated to analyzing evidence related to wildlife crimes ([www.lab.fws.gov](http://www.lab.fws.gov)). Although the Ashland FWS lab uses advanced technology in their analysis, they may have suggestions about cheaper, more low-tech tests that could be used to identify the date when species were hunted, the type of weapon used, etc.

#### **6.4.4 Alternative theories of liability**

Antique shops where sell antler, can do enforcement there? Ask Ministry of Environment for these kinds of things. In the law it says that if tour operators organize hunting tour without license, they obviously would be fined. The maximum or minimum amount (\$300,000) it is for organizations, and if it's like individual the fine amount would be smaller. If someone hunts the very rare animals they got to jail up to five years. This kind of hunting would be under the administrative law (hunting law). The fine which was 300k is an administrative responsibility.

#### **Article 36. Forms of Complicity**

36.1. Complicity in crimes shall be of co-principals, an advance agreement by a group of persons, organized group and a criminal organization forms.

36.3. Two or more persons joining at an advance agreement to commit a crime shall be recognized a group at an advance agreement.

36.4. A permanent group joining at an advance agreement for the purpose of committing crimes shall be recognized an organized group.

36.5. Union of criminals pursuing the purpose of gaining profit, structured into an organization shall be recognized a criminal organization.

#### **Article 37. Criminal Liability of Co-principals**

37.1. In determining the type and amount of criminal liability of the accomplices the court shall take into account the role, character and degree of actions of each accomplice in committing the crime and apply Article 35 of the General Part of the Criminal Code.

37.2. Leaders of organized and criminal groups shall be subject to criminal liability for such management in the events specified in the articles of the Special Part and for all crimes committed by such a group.

37.3. Other participants in the organized and criminal groups shall be subject to criminal liability for both participation in such groups and for their respective committed crimes.

37.5. An organizer may not imposed penalty lower than that of the principal for the which was committed at his/her order.

## **Article 39. Relation to Crimes**

39.1. Persons who conceal or fail to report on crimes shall be in relation to crimes.

39.3. Failure to inform the relevant authority or official about a really known prepared or accomplished crime shall be non-reporting on crimes.

39.4. Concealment of or failure to inform about the crimes specified in the Special Part of this Code shall be subject to criminal liability.

## **6.5 Market regulation**

### **6.5.1 Legally-defined trade points for wildlife and hunting weapons**

WCS should discuss with other NGOs and government officials the possibility of getting legislation passed at the municipal, or even the national level, to limit wildlife trade activity to designated markets in Ulaanbaatar. Raw materials derived from wildlife would only be legally stored and traded in particular stores, markets, or areas within markets. Trading or storing wildlife products outside of such designated areas would be prohibited. From an enforcement perspective, this measure would give police and inspectors a straightforward way to distinguish legal and illegal trade, to enforce the certificate of origin system, to issue and inspect export permits, and to avoid some of the difficulties of proving that wildlife was hunted with a valid license (discussed in section 3.2.1, above).

Difficulties would certainly arise in designing this kind of market system. For example, would wildlife product inventory have to be stored in the same site? If not, how would inspectors differentiate between off-site trade activity and storage? To be successful, the designated markets would have to be convenient and accessible. Since wildlife products are often traded together with livestock products, it would be better to have several small markets, or markets within established markets (ie., a *khashaa* within Emeelt or Nalaikh) than one big market that is far the main road, or on one side of UB and not the other, etc. There is also the question of what government body would have the authority to designate wildlife markets.

Currently, no law designates specific locations where trade in wildlife parts may occur. There is some precedent for designating exclusive markets or trade channels. Customs officials have already established a system of designating ports for the import and export of endangered species and wildlife products (See Article 11 of Mongolia's CITES implementation law. At those points, Customs staff should include non-CITES and non-Mongolian protected species in the clearance process; in addition to inspecting import/export documentation, they should also collect and inspect receipts and hunting licenses.

There is also some precedent in the area of firearm control. According to Mr. Badam (SSIA) and Ms. Badamkhand (UBSIA), guns and bullets—including hunting guns—can legally be sold in only one place, a store or market called “Ikh Av.” In the past, anyone who wanted to import firearms and ammunition could do so; now, the Ministry of Law and Justice's system only grants two organizations permission to import: the Horseman Club, and ASA Travel.<sup>9</sup> WCS should investigate the *Ikh Av* location and try to assess whether a similar approach could work for wildlife. It will be important to find out about the source of the legal authority to limit gun sales to this area. Did it require an act of Parliament? The National Police Agency is responsible for authorizing the import of guns, and so may also be the agency responsible for designating places where guns can be

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<sup>9</sup> Individuals must obtain a license from the Ministry of Trade in order to purchase a hunting gun. The Ministry of Nature, Environment, and Tourism should coordinate with the Ministry of Justice to make sure that the number of bullets sold is proportionate to the hunting quotas established each year.

traded. (Under regulation 36/34 (Appendix 2) enacted jointly by the National Police Agency and the Customs General Authority in 2002, anyone wishing to import firearms into Mongolia must apply for permission from the public order department of the Police.<sup>10</sup> A recent (July 2007) update to Regulation 36/34 provides customs officials with a form for recording and reporting back to Police basic information about firearm import permits inspected at the border.<sup>11</sup>)

Again, as discussed in 6.2.1, the prospect of designating official wildlife trade zones raises exactly the kind of situation where “smaller” units of government—the Ministry of Nature, Environment, and Tourism, or the Ministry of Trade and Agriculture, or the Ulaanbaatar City *Khural* (council)—would be able to develop the regulations faster, and with more flexibility in case changes or updates need to be made from year to year. During interviews, enforcement personnel from different agencies in Ulaanbaatar were receptive to the idea of designating specific trade points for wildlife. Ms. Badamkhand (USBIA) was enthusiastic about the idea of legally-defined trade points, and felt that such regulations could be promulgated by the Ulaanbaatar City *Khural*. Lt. Col. Erdenebayar, of the Police, believes that the MNET should be responsible for issuing the regulations. This is a point that would need to be resolved through inter-agency discussions.

### **6.5.2 Encourage enforcement of the Law on Advertising against publishers (as well as advertisers) of wildlife advertisements**

As discussed earlier, fines for violations of the Law on Advertising are slight. Violations of § 14 carry a fine of 10,000-15,000 MNT for citizens, 25,000-60,000 MNT for , and 50,000-250,000 for organizations and economic entities.<sup>12</sup> Enforcement might have more of a deterrent effect if the law was amended to have stiffer penalties, and to hold publishers—newspapers, or public address services provided in market centers—jointly liable for printing or broadcasting illegal wildlife advertisements. The Mongolian Criminal Code, Ch. 7 Art. 34, defines joint criminal liability for the “deliberate joint participation of two or more persons in committing a crime.” MCC § 34.1. Under this standard, a publisher may be an “accessory” to a crime if he or she “provides . . . means or removes obstacles”. An advance agreement is not necessary for complicity.<sup>13</sup> Since the Law on Advertising provides for civil penalties only, one would have to look at the civil code to find the applicable standard for complicity there. But where an advertisement for a rare or very rare animal

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<sup>10</sup> See “ГАЛТ ЗЭВСГИЙГ УЛСЫН ХИЛЭЭР ОРУУЛАХАД ЗӨВШӨӨЛ ОЛГОХ; ГААЛИЙН ШАЛГАЛТ ХИЙХ ЖУРАМ” ЦЕГ, ГЕГ-ын даргын хамтарсан 2002 оны 36/34 тоот тушаалын хоёрдугаар хавсралт.

<sup>11</sup> “ГАЛТ ЗЭВСГИЙГ УЛСЫН ХИЛЭЭР ОРУУЛСАН МЭДЭЭ,” ЦЕГ, ГЕГ-ын даргын хамтарсан 2002 оны 36/34 тоот тушаалын гуравдугаар хавсралт (07-23-2007) The form includes spaces to input the name permit number and issue date; the name and passport number of the bearer; details about the weapon; the border point where the customs official is posted; the date of the inspection, etc.

<sup>12</sup> 29.1.Энэ хуулийг зөрчсөн гэм буруутай этгээдэд Оюуны өмчийн улсын хяналтын албаны байцаагч дараахь захиргааны шийтгэл ногдуулна:

29.1.1.зар сурталчилгаанд хяналт тавих эрх бүхий байгууллага, албан тушаалтны хууль ёсны шийдвэр, шаардлагыг зөрчсөн, эсхүл үндэслэлгүйгээр биелүүлээгүй иргэнийг 10000-50000 хүртэл төгрөгөөр, албан тушаалтныг 25000-60000 хүртэл төгрөгөөр, байгууллага, аж ахуйн нэгжийг 50000-250000 хүртэл төгрөгөөр торгох;

29.1.2.энэ хуулийн 6.1, 6.3, 6.4 дэх хэсэгт, 6.5.1-6.5.8 дахь заалт, 7 дугаар зүйл, 9.3 дахь хэсэг, 10-14, 16, 17 дугаар зүйл, 19.3, 22.1 дэх хэсэг, 23 дугаар зүйлд заасан шаардлагыг зөрчсөн бол гэм буруутай иргэнийг 10000-50000 хүртэл төгрөгөөр, албан тушаалтныг 25000-60000 хүртэл төгрөгөөр, байгууллага, аж ахуйн нэгжийг 50000-250000 хүртэл төгрөгөөр торгох.

29.2.Энэ хуулийн [29.1](#)-д заасан захиргааны хариуцлага нь хууль тогтоомжийн бусад актад заасан хариуцлага, зар сурталчилгааны тухай хууль тогтоомжийг зөрчсөн үйлдэл, үйл ажиллагааг таслан зогсоох шаардлагыг биелүүлэхээс чөлөөлөх үндэслэл болохгүй.

<sup>13</sup> See MCC § 36.2: “Two or more persons with no advance agreement but acting jointly to commit a crime shall be recognized co-principals.

might constitute a criminal violation, there is at least a plausible legal argument that the publisher could also be complicit in the crime.

Stiffer fines may not be necessary, based on the experience of the WCS Student Survey team and the Municipal SIA [MSIA]. In 2008, the MSIA sent official letters to several TV channels and newspapers that advertise wildlife, requesting that they cease to publish such advertisements. The newspapers complied with the MSIA's request, although it would be worth following up now to see whether they have resumed publishing wildlife-related advertising in the interim (Parkinson et al. 2008). According to the WCS 2008 Ulaanbaatar Wildlife Trade Survey report, advertisements of wildlife products for sale or trade are not only published in newspapers, but are also posted in the markets themselves, such as in Narantuul Market (Parkinson et al. 2008). Some follow-up would also be advisable to determine whether MSIA sent its request to the Narantuul market owners.

## 6.6 Improving information channels

### 6.6.1 Hotline (327-725)

According to Mr. Badam, a hotline already exists for citizens to call in with information about illegal hunting. The number for the hotline is 327-725. He says that the hotline has not been very useful, because people are very reluctant to report wrongdoing or get other people into trouble. I would venture that the hotline number is not well-known, and individuals may not be willing to pay for the call. Although informants are guaranteed anonymity by the Mongolian Law on Environmental Protection § 34.7, anonymity is apparently less of a concern than bad karma. Nor are rewards for whistleblowers a significant incentive. Informants are generally entitled to cash awards of 15% of fines collected,<sup>14</sup> although the fines are often so low that in many instances that even a 100% reward would not be much of an incentive. Wingard & Odgerel have proposed that higher rewards be allowed for information leading to the arrest and conviction of persons who hunt or possess endangered species, or possess above a certain quantity of wildlife products.

WCS cannot do much to change cultural attitudes about informing on friends and co-workers, but it can do something about educating more people that the hotline exists. WCS could print large color stickers with the hotline number, pictures of wildlife, and information about anonymity protection and monetary rewards. The pictures of wildlife should include both rare species, like argali or snow leopards, and more abundant species, like wolves or marmots, so that the public does not get the impression that only rare species are protected. The stickers should be posted in areas where wildlife trade occurs, such as in and around the major markets such as Narantuul, Tsaiz, and Kharkhorin in Ulaanbaatar. WCS should also approach telephone ("white phone") operators and the owners of newspaper kiosks near raw material markets, and ask (or pay) them to post these stickers in prominent places. Bumper stickers might also be a popular way to distribute this information, as they are still a novelty in Ulaanbaatar. In a country with little experience in grassroots mobilization and environmental groups with large membership, getting people to post bumper stickers on their cars could go a long way towards boosting the perception that everyday people are affected by and concerned about the wildlife trade issue.

\*\*\* According to the *UB Post*, as of July 2008 the Office of Naturalization and Foreign Citizens has opened a separate hotline for foreigners living in Mongolia. The purpose of this hotline is to receive information about illegal aliens, as well as about "people who illegally collect the organs of animals,

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<sup>14</sup> See the Mongolian Law on Hunting § 17.1, the Mongolian Law on Fauna § 26.1, and the Mongolian Law on Environmental Protection § 34.4. The MLEP also provides that inspectors and rangers be rewarded by 15% of the fine amount for successful inspections. MLEP § 34.5.

illegal hunting, people who collect and smuggle plants, and people who import toxic chemicals.” (B. Bulgamaa 2008).

### **6.6.2 Pocket guide to wildlife laws, species key**

A common refrain among officials interviewed is that more training is needed for rank and file enforcement personnel in species identification and the basic legal regime governing hunting and the wildlife trade. As discussed in Part 3, above, effective enforcement of Mongolia’s species-oriented wildlife legislation depends on the ability of inspectors, police, customs, and other officers be able to identify species and distinguish between them, their antlers, fur, meat, internal organs, and so on. Furthermore, officials need to be able to quickly distinguish which legal provisions are applicable to the species in question. Is the species Very Rare, Rare, or a Game species? Is it listed in CITES Appendix I or II? The applicable provisions may change from year to year—depending on whether the MNET decides to ban hunting of a particular species—and from season to season, again depending on which species we are talking about. The applicable provisions may also be spatially contingent, such as when raw marmot meat is brought into Ulaanbaatar. And different licenses and permission may be required depending on how the species is used—hunting licenses, tags, certificates of origin, CITES export permits, gun licenses, and so on.

In short, while there is constant complaint about the inadequacy of legal protections for wildlife, it is also true that existing legal protections are selectively enforced and poorly understood. Police officers on patrol at the train station may not be aware of CITES provisions. Meanwhile, customs officials at the Buyant-Uhaa airport limit their inspection activities to checking import/export documentation. They did not collect or inspect other documents, like receipts or hunting licenses, and they do not screen for non-CITES or non-Mongolian protected species.

This problem is not unique to Mongolia. Conservation experts have decried the lack of a mandatory, standardized reporting requirement for the international trade of wildlife products. Such reporting systems do exist in certain countries (such as the U.S. Fish and Wildlife Service Law Enforcement Management Information System) or for CITES species (e.g., the UNEP-World Conservation Monitoring Centre’s CITES Trade Database). Recently, conservation experts proposed that customs officials worldwide require a species’ scientific name be listed as part of the Harmonized Commodity Description and Coding System [HS], used by custom administrations worldwide to classify commodities according to 5000 different 6-digit codes. All species’ scientific names are associated with unique, numeric identifiers, or “TSN.” (Gerson et. al. 2008). TSN numbers for Mongolia’s commonly traded species could easily be identified and provided to Mongolian customs officials to supplement the HS system already in use. Such a system would be especially helpful for tracking the export of species not subject to monitoring under CITES.

To improve enforcement under existing law, WCS should commission a pocket reference guide for police, inspectors, customs officials, and other law enforcement officers. The guide could be organized by species, including photographs and a key for identifying the species and distinguishing it from species of similar appearance; the types of raw material derivatives commonly seen in the market; the legal protections applicable to the species, including seasons, hunting bans, CITES status, etc.; the types of certifications and licenses required, and the agencies that issue them. Other sections could clarify the protocol for handling evidence; what constitutes a “large amount” sufficient for criminal prosecution; the protocol for searches and seizures, etc. Ideally, the guide would be extremely condensed and easy to navigate, and portable enough to be tucked into a pocket during patrols.

The process of developing such a guide would require WCS to get official answers to some admittedly ambiguous legal issues (outlined in Part III) from a variety of different agencies. Given the poor state of inter-agency cooperation, this could be both a challenge and an opportunity to improve collaboration and clarify murky law. Also, it is almost certain that the completed guide will quickly go out of date as hunting bans are lifted, new legislation is passed, etc. There will need to be a process in place for issuing new versions of the guide on an annual basis—perhaps by posting updated versions of the guide on the internet, or distributing stickers with amendments printed on them (to be affixed to outdated pages/provisions).

## **6.7 Improve inter-agency cooperation**

While improved coordination of wildlife conservat

### **6.7.1 Agency restructuring**

Several agencies are currently restructuring internally to create specialized sub-agencies responsible for enforcement of environmental or even solely wildlife protection laws. The Ministry of Nature, Environment, and Tourism is developing a Wildlife Management Authority, at least in part to implement Mongolia's CITES obligations. The National Police Agency is in the process of establishing a specialized department to investigate environmental crimes. The Customs authority, as discussed earlier, is seeking legislative changes that would give them broader powers to investigate environmental crimes. And the SSIA—which went through comprehensive restructuring to become an independent agency in 2002—has established an anti-poaching unit in Ulaanbaatar.

While this restructuring will improve agency competence and create an administrative constituency for wildlife issues, it may also create the perception that personnel outside the specialized units are not responsible for wildlife protection. For example, having police units dedicated specifically to work on environmental crimes should not have the effect of relieving other units from monitoring and enforcing environmental crimes. For example, while accompanying members of the Inspection and Monitoring Unit 805 of the National Police on an inspection patrol in the Narantuul Market, WCS student teams encountered six dealers openly selling a lynx coat, and skins of beech marten, Red fox, Corsac fox, Siberian ibex, and steppe polecat, in an area right in front of a police post (Parkinson et al. 2008). The proximity of the police post evidently did not deter the traders, as the police did not undertake any wildlife trade enforcement.

Customs officials, for example, have complained that the SSIA's current structure of separate specialized units is inefficient and difficult to work with (FWS 2007). Regular meetings should be set up with agency officials regularly to keep abreast of the progress of reorganization; at the same time, environmental NGOs should be careful to target training and capacity-building activities towards rank-and-file police officers, inspectors, and so on—particularly those without special wildlife training who are nonetheless stationed in key trade channels, like the *tovchoo*, the train station, and the Emeelt veterinary inspection station.

### **6.7.2 \*Develop standard protocols for handling confiscated wildlife products**

Inspectors, police, and customs officials all have powers to confiscate illegal wildlife products when they conduct investigations. But as Wingard, Nyamtseren, and Odgerel (2007) observed in the Gap



Analysis, there are currently no organizational protocols that specify what should be done with these goods after confiscation. Different agencies use different procedures. According to Customs officials, when a violation is discovered, the illegal goods are seized and eventually sold for revenue; live wildlife is usually released. If the offense is serious enough to warrant criminal prosecution, the case (and presumably, related evidence) is transferred to the National Police or Prosecutor's Office, and prosecution usually takes between three to six months. Mr. Badam reports that the SSIA follows a somewhat similar policy, depending on how rare the confiscated species is. If it is very rare, it cannot be resold, so the SSIA will sometimes donate the wildlife to a museum, or put it in storage, or even destroy it. In cases where the SSIA has confiscated a large number of an abundant species, like marmot skins, it is more likely to sell the skins to processing factories like Mongol Sor.

To give some sense of the magnitude of this "official" resale, between 2004 and 2007, about 200,000 marmot skins were intercepted or confiscated by the SSIA. Over 1.1 billion togrogs went to the state budget from the resale of the confiscated skins. Given that marmot hunting has been banned since 2005, it is evident that confiscation and resale has replaced the sale of hunting licenses as a significant revenue stream for the Mongolian government. Section 34.5 of the Mongolian Law on Environmental Protection has built in incentives encouraging resale: under that provision, inspectors and rangers are awarded 15% of the income from the resale of confiscated wildlife. (It is not known how consistently these awards are actually paid out).

In practice, when SSIA officials seized two hundred red fox skins during a joint patrol at Tsaiz market in January 2008, they did not have a proper place to store them; the skins were housed in the Municipal inspector's office for two nights. (Parkinson et al. 2008). And in February 2008, when a WCS student team tipped off the Municipal SIA about a live Pallas' cat for sale in Ulaanbaatar, the SIA official was able to confiscate the cat. Lacking a protocol for the handling of live wildlife, the official released the animal in the countryside, 5km outside the Emeelt market (Parkinson et al. 2008).

Standard protocol is needed to deter corruption, and to ensure the preservation of confiscated wildlife that will be needed as evidence for eventual court proceedings. Wingard et al. (2007) recommended drafting wildlife confiscation protocols as an amendment to the Law on Hunting. At a minimum regulations are needed that will identify 1) what evidence must be sent to a laboratory for service or courts for adjudication proceedings; 2) what documents must be included when submitting evidence; 3) design of an evidence submittal form; 4) design of a chain-of-custody form; 5) guidelines for packaging, sealing, labeling, tagging, and shipping evidence (including special procedures for perishable materials). Guidelines for the release of live animals into the wild should also be developed in consultation with wildlife biologists. These issues should be discussed with the SSIA, Police, Customs, and state Prosecutors to determine whether a standard protocol is desired, and to set up an inter-agency task force to develop one. FWS officers may be able to suggest best practices for WCS to adapt and recommend to Mongolian officials.

### **6.7.3 Intelligence-sharing database**

A common refrain among the government officials we interviewed was the need to improve intelligence-sharing between enforcement agencies. An intelligence-sharing database is needed in order to increase transparency, standardize the transfer of criminal-level cases to the Police, and enable enforcement officers to catch recidivists. As Oyunbold at the National Legal Center pointed out, penalties under administrative and criminal law are steeper for people who are caught violating the law more than once, but the existing system gives inspectors no way to know whether a person has already been caught.

The Customs General Administration already maintains a database of exports, including legally exported wildlife products. And according to Mr. Badam (SSIA), the Ministry of Nature, Environment, and Tourism is trying to develop a similar database with information about wildlife inspections. (He is confused about why MNET is undertaking this project, as SSIA would be more appropriate to host this kind of information database.) The two cooperation agreements, signed by the National Police Agency and the SSIA, include a long list of obligations and commitments by both parties to share information about violations of environmental laws; both complain that the other is not complying with these obligations.

Ideally, the database would be internet-based, so that it can be automatically updated. The USAID-Judicial Reform Project has recently developed a docket management system, which parties in active judicial proceedings can use to check the status of their cases. The JRP staff may have good advice about how to get such a system implemented.

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# APPENDIX A: TIMELINE OF ACTIVITIES

## 2005

First nationwide survey of the Mongolian wildlife trade, conducted by Jim Wingard and Peter Zahler for the Wildlife Conservation Society. The study was funded by the World Bank's Netherlands-Mongolia Trust Fund for Environmental Reform (NEMO I).

Following this survey, a Workshop on Mongolian Wildlife Trade was held in Ulaanbaatar on August 17-19, 2005. The workshop, sponsored by the World Bank, was attended by more than 120 stakeholders (members of governmental, non-governmental, scientific, hunting, and tourism organizations). Participants in the workshop developed numerous recommendations for improving wildlife trade enforcement.

## 2006

Publication of *Silent Steppe: The Illegal Wildlife Trade Crisis in Mongolia*, a report based on the 2005 nationwide survey. The report was prepared by the World Bank (Environment and Social Development Unit of the East Asia and Pacific Region). It highlights the devastating impact that increased hunting, primarily for commercial wildlife trade, is having on the country's wildlife resources. Many economically important species in Mongolia have declined by as much as 50-90% in just the last 15 years, much of it due to the international trade in wildlife.

Following completion of the *Silent Steppe* report, the World Bank sponsored the Wildlife Conservation Society to conduct a "gap analysis" of wildlife-related legislation. Jim Wingard collaborated with Dr. P. Odgerel (Instructor at the Mongolian State University School of Law) to identify weaknesses and conflicts in existing laws and regulations governing wildlife management. Their suggestions for revisions and additions to the Mongolian Law on Hunting are detailed in *Improving Wildlife Trade and Hunting Legislation*, a report released in 2006. With regards to control of the wildlife trade specifically, the authors proposed legislation that would restrict trade in wildlife products to specific domestic markets and international border points, where government officials would have expanded inspection rights. Other proposals include wildlife product registration for trophy species and wildlife products of aesthetic or medicinal value; a wildlife hotline; regulations clarifying chain-of-custody requirements for authenticating, storing, and transporting evidence; minimum, flat rate rewards for informants (as opposed to the current fine percentage-based rewards); and anti-corruption measures.

In November 2006, a delegation of law enforcement officers from the United States Fish and Wildlife Service (US-FWS) and wildlife trade specialists from TRAFFIC East Asia visited Mongolia and conducted a three-day training session in Wildlife Law Enforcement for over forty participants from eight Mongolian agencies. Topics included an overview of wildlife law enforcement in the United States, as well as techniques for surveillance, examining luggage, confiscation and evidence handling, disposal and disposition of seized wildlife, etc. At the conclusion of the training, participants expressed interest in (1) further training in self-defense and species identification; (2) development of an on-line training program, a "train-the-trainers" program, and increased inter-agency and international cooperation and cross-training.

## 2007

With funding from NEMO I and the United States Agency for International Development, WCS piloted a “Collaborative Wildlife Protection Program” in Nomrog Strictly Protected Area (SPA) in Dornod aimag. Protected Area rangers and border guards posted in or near Nomrog SPA were provided wildlife law enforcement training, and given the opportunity to assess the effectiveness of a unique collaborative “inter-agency” approach to wildlife protection.

## **2008**

During a three-month period from December 2007 through February 2008, WCS consultants and staff—including Andrew Parkinson, N. Odonchimeg, D. Tuvshinjargal, and Amanda Fine—coordinated surveys of markets in Ulaanbaatar and the surrounding vicinity, to assess the strengths and weaknesses of existing wildlife trade law enforcement. WCS staff and students from the Ecology Knowledge club of the Mongolia National University designed and implemented 160 surveys of markets, shops, restaurants, hospitals, and newspaper and other advertisements. WCS also tracked the actions taken by enforcement agencies on reported incidents. Fifty-one species of wildlife and fish were identified in the surveys.

A project agreement was signed in June 2008 by the WCS and the MNET to “Protect Mongolia’s Wildlife through Wildlife Trade Law Enforcement,” with funding from the Netherlands-Mongolian Trust for Environmental Reform (NEMO) Phase II program. The project was designed to decrease the volume and scale of illegal wildlife trade in Mongolia. Primary activities included an examination of the current and potential strategies for enforcing wildlife trade law in Ulaanbaatar and the formation of a multi-agency wildlife trade crime unit or team to improve enforcement in Ulaanbaatar markets and trade points around the city.

At a workshop held in August 2008, WCS facilitated the formation of a multi-agency wildlife trade crime unit (WTCU) made up of representatives from the CITES National Authority and Policy Implementation and Strategic Planning Department of the Mongolian Ministry of Nature (MNET), Environment, and Tourism; the State Specialized Inspection Agency (SSIA); the Municipal Specialized Inspection Agency (Municipal SIA); the Wildlife Crime and Patrolling and Protection Units of the National Police; the Veterinary Inspection Unit of Ulaanbaatar Airport Customs; and the “IRBIS” Environmental Crime Emergency Response Unit.

The multi-agency WTCU participated in a pilot Ulaanbaatar-area marmot anti-poaching initiative in September 2008. This special pilot patrol was conducted in the Ulaanbaatar “Green Zone” to enforce the national ban on marmot hunting. A number of marmot poachers and individuals involved in trade and transport of marmot meat and skins were arrested and fined.

## **2009**

Between December 2008 and January 2009, the multi-agency WTCU participated in pilot market patrols in the Ulaanbaatar area. A total of seven patrols were conducted between December 4, 2008 and January 6, 2009, covering two or three markets or points of trade on each patrol. Targeted sites included raw materials markets (Emeelt, Ulaanbaatar Tsaiz, Nalaikh Tsaiz, and Altai Chandani Co. Ltd.), food markets (Narantuul, Bayanzurkh, and Mercury), souvenir shops (Nomin State Department Store and Flower Center), restaurants (Korean Chinggis and Wool Aroc Bar), and roadway entrance points (Bayansurkh Bridge, Point 22, Guntiin Davaa, Partizan, and Baganuur). Nineteen species of wildlife were detected, representing fifteen violations of the law, and leading to six official warnings, eight confiscations, and one criminal prosecution. In total, these violations represented 60 million MNT in violations (US\$ 45,000 equivalent). The results of these patrols was

announced at a press conference. Members of all WCTU-participating agencies played an active role in the pilot patrols.

Also during December 2008 and January 2009, students continued observational surveys of Ulaanbaatar area markets.

Between January 9-20, 2009, members of the WCTU participated in a study tour to Lao PDR, to observe the Vientiane Capital City Wildlife Trade Prevention Project, a multi-agency approach to wildlife trade prevention in Lao PDR begun with WCS-Laos assistance in 2003. Members of the study tour participated in meetings, small conferences, and field trips to gain firsthand knowledge of the strategies used by various agencies in another Asian capital city to combat illegal wildlife trade. Participants visited un-monitored markets outside Vientiane, as well as in capital city markets where coordinated patrols are underway.



# APPENDIX B: SPECIES PROTECTION KEY

## B.1 CITES Appendix I + Very Rare

<b>1 SPECIES</b>	<b>Snow leopard (<i>Uncia uncia</i>)</b>	4,000,000 MNT male; 5,200,000 MNT female
<b>HUNTING</b> <i>Very Rare</i>	May be hunted only for scientific purposes, with a special permit. [MLF § 7.2] Otherwise, hunting or trapping, preparing and trading hides, fur, and other parts of the animal is prohibited. [MLF § 7.3]	
<i>Penalties</i>	Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools [MCC § 203.1]	<ul style="list-style-type: none"> <li>▪ Punishable by fine (51 to 150x min. salary)</li> <li>▪ Incarceration for 3 to 6 months</li> <li>▪ Imprisonment for up to 3 years</li> </ul>
	Causing damage in an extraordinarily large amount [MCC § 203.2]	<ul style="list-style-type: none"> <li>▪ Fine equal to 150-250x min. salary</li> <li>▪ Three to five years' imprisonment</li> </ul>
	Hunting or catching a very rare animal [MCC § 203.2]	<ul style="list-style-type: none"> <li>▪ Punishable by a fine of 150 to 250 times the minimum salary</li> <li>▪ Three to 5 years' imprisonment</li> </ul>
	Hunting animal without a valid license or special permit [MLF § 27.1.2]	<ul style="list-style-type: none"> <li>▪ 20 000 to 50 000 MNT (individuals),</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Causing a decline in numbers of rare fauna or destroying their habitat [MLF § 27.1.3]	Confiscation of any animal parts, plus a fine of <ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals), and</li> <li>▪ 150 000 to 250 000 (entities).</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Reintroducing or importing very rare animal without a license or permit [MLF § 27.1.4]	<ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals)</li> <li>▪ 75 000 to 200 000 MNT (entities)</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Use of an expired permit; transfer of permit or license to third party; attempt to use animal without valid license or permit [MLF § 27.1.1]	<ul style="list-style-type: none"> <li>▪ 5 000 to 10 000 MNT (individuals)</li> <li>▪ 50 000 (entities)</li> </ul>
	Using animal "without a license or special permit" [MLF § 27.1.5]	<ul style="list-style-type: none"> <li>▪ 10 000 to 50 000 MNT (individuals)</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> </ul>
<b>TRADING</b>	It is prohibited to trade an extremely rare animal's skin, bone, or other raw materials. [MLF § 7.3]	
<i>Penalties</i>	Purchasing a very rare animal's skin, fur, and other raw materials without permission [MLF § 27.1.3]	<ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals)</li> <li>▪ 150 000 to 250 000 MNT (entities)</li> <li>▪ Purchased items should be confiscated</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
<b>EXPORT</b> <i>CITES App.I</i>	May be exported only under exceptional circumstances [CITES App.1]. Both an import and export license are required. A CITES export permit may only be issued if the animal was legally obtained, if the trade will not be detrimental to species survival, and if an import permit has already been obtained. A CITES import permit will only be issued if the trade is for non-commercial purposes that are not detrimental to the species.	
<i>Penalties</i>	Illegally exporting fauna listed in the CITES convention [Mongolian CITES Law § 15.1.1]	<ul style="list-style-type: none"> <li>▪ 50 000 MNT (citizens)</li> <li>▪ 60 000 MNT (officials)</li> <li>▪ 250 000 MNT (entities)</li> </ul>

	Use of expired authorization, or use of forged authorization/license [Mongolian CITES Law § 15.1.2]	<ul style="list-style-type: none"> <li>▪ 50 000 MNT (individual)</li> <li>▪ 250 000 MNT (entities)</li> <li>▪ Confiscation of illegally obtained animals</li> </ul>
<b>OTHER</b>	Environmental Impact Assessment is required for any industrial activity (heavy construction, road building, or mine development) within very rare species' habitat. [MLF § 7.4]	
	Advertising of very rare animal products is prohibited under MLA § 14.1	<ul style="list-style-type: none"> <li>▪ 10 000 to 15 000 MNT (individual)</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> </ul>

## B.2 CITES Appendix II + Very Rare

<b>2 SPECIES</b>	<b>Siberian musk deer</b> ( <i>Moschus moschiferus</i> )	2,000,000 MNT male; 2,600,000 MNT female
	<b>Saiga antelope</b> ( <i>Saiga tatarica</i> )	2,000,000 MNT male; 2,600,000 MNT female
<b>HUNTING</b> <i>Very Rare</i>	May be hunted only for scientific purposes, with a special permit. [MLF § 7.2] Otherwise, hunting or trapping, preparing and trading hides, fur, and other parts of the animal is prohibited. [MLF § 7.3]	
<i>Penalties</i>	Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools [MCC § 203.1]	<ul style="list-style-type: none"> <li>▪ Punishable by fine (51 to 150x min. salary)</li> <li>▪ Incarceration for 3 to 6 months</li> <li>▪ Imprisonment for up to 3 years</li> </ul>
	Causing damage in an extraordinarily large amount [MCC § 203.2]	<ul style="list-style-type: none"> <li>▪ Fine equal to 150-250x min. salary</li> <li>▪ Three to five years' imprisonment</li> </ul>
	Hunting or catching a very rare animal [MCC § 203.2]	<ul style="list-style-type: none"> <li>▪ Punishable by a fine of 150 to 250 times the minimum salary</li> <li>▪ Three to 5 years' imprisonment</li> </ul>
	Hunting animal without a valid license or special permit [MLF § 27.1.2]	<ul style="list-style-type: none"> <li>▪ 20 000 to 50 000 MNT (individuals),</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Causing a decline in numbers of very rare species or destroying their habitat [MLF § 27.1.3]	<ul style="list-style-type: none"> <li>▪ Confiscation of any animal parts, plus a fine of</li> <li>▪ 35 000 to 50 000 MNT (individuals), and</li> <li>▪ 150 000 to 250 000 (entities).</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Reintroducing or importing very rare animal without a license or permit [MLF § 27.1.4]	<ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals)</li> <li>▪ 75 000 to 200 000 MNT (entities)</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Use of an expired permit; transfer of permit or license to third party; attempt to use animal without valid license or permit [MLF § 27.1.1]	<ul style="list-style-type: none"> <li>▪ 5 000 to 10 000 MNT (individuals)</li> <li>▪ 50 000 (entities)</li> </ul>
	Using animal "without a license or special permit" [MLF § 27.1.5]	<ul style="list-style-type: none"> <li>▪ 10 000 to 50 000 MNT (individuals)</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> </ul>
<b>TRADING</b>	It is prohibited to trade a very rare animal's skin, bone, or other raw materials. [MLF § 7.3]	
<i>Penalties</i>	Purchasing a very rare animal's skin, fur, and other raw materials without permission [MLF § 27.1.3]	<ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals)</li> <li>▪ 150 000 to 250 000 MNT (entities)</li> <li>▪ Purchased items should be confiscated</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
<b>EXPORT</b> <i>CITES App.II</i>	May be exported if the specimen was legally obtained and if export does not threaten species survival. [CITES App.2]. No import permit is required. A permit is required to export (or re-export). The permit may be issued only if the specimen was obtained not in violation of national wildlife protection laws, and when the Mongolian CITES Scientific Authority confirms that exporting the animal will not be detrimental to the survival of the species.	
<i>Penalties</i>	Illegally exporting fauna listed in the CITES convention [Mongolian CITES Law § 15.1.1]	<ul style="list-style-type: none"> <li>▪ 50 000 MNT (citizens)</li> <li>▪ 60 000 MNT (officials)</li> <li>▪ 250 000 MNT (entities)</li> </ul>

	Use of expired authorization, or use of forged authorization/license [Mongolian CITES Law § 15.1.2]	<ul style="list-style-type: none"> <li>▪ 50 000 MNT (individual)</li> <li>▪ 250 000 MNT (entities)</li> <li>▪ Confiscation of illegally obtained animals</li> </ul>
<b>OTHER</b>	Environmental Impact Assessment is required for any industrial activity (heavy construction, road building, or mine development) within very rare species' habitat. [MLF § 7.4]	
	Advertising very rare animal products is prohibited under MLA § 14.1	<ul style="list-style-type: none"> <li>▪ 10 000 to 15 000 MNT (individual)</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> </ul>

## B.3 CITES Appendix II + Rare

<b>4 SPECIES</b>	<b>Argali sheep (<i>Ovis ammon</i>)</b> <b>Eurasian lynx (<i>Lynx lynx</i>)</b> October 21 to February 16 <b>Brown bear (<i>Ursus arctos</i>)</b> August 1 to November 16 <b>Red deer (<i>Cervus elaphus</i>)</b>	
<b>HUNTING</b>	May be hunted or trapped pursuant to permits issued by the central government for:	
<i>Rare</i>	<ul style="list-style-type: none"> <li>Scientific, research, cultural, artistic, and medicinal purposes [MLF § 7.5.1]</li> <li>Pursuant to payment of special fees by foreigners and Mongolian citizens [MLF § 7.5.2]</li> <li>For regulating the numbers of animals, or removing the sources of infectious diseases for certain areas. [MLF § 7.5.3]</li> <li>For purposes of sport hunting. [MLH § 11.2.4]</li> </ul>	
<i>Penalties</i>	Hunting or catching a rare animal without permission [MCC § 203.1];  Storing, selling, purchasing, or transporting the raw materials of a rare animal [MCC § 203.1];  Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools [MCC § 203.1]	<ul style="list-style-type: none"> <li>Punishable by fine (51 to 150x min. salary)</li> <li>Incarceration for 3 to 6 months</li> <li>Imprisonment for up to 3 years</li> </ul>
	Causing damage in an extraordinarily large amount [MCC § 203.2]	<ul style="list-style-type: none"> <li>Fine equal to 150-250x min. salary</li> <li>Three to five years' imprisonment</li> </ul>
	Smuggling rare animals across the state border [MCC § 175.1]	<ul style="list-style-type: none"> <li>Fine equal to 51-150x min. salary</li> <li>251 to 500 hours of forced labor</li> <li>Three to six months incarceration</li> </ul>
	Hunting animal without a valid license or special permit [MLF § 27.1.2]	<ul style="list-style-type: none"> <li>20 000 to 50 000 MNT (individuals),</li> <li>50 000 to 250 000 MNT (entities)</li> <li>Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Causing a decline in numbers of rare species or destroying their habitat [MLF § 27.1.3]	<ul style="list-style-type: none"> <li>Confiscation of animal parts, plus a fine of</li> <li>35 000 to 50 000 MNT (individuals), and</li> <li>150 000 to 250 000 (entities).</li> <li>Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Reintroducing or importing fauna without a license or permit [MLF § 27.1.4]	<ul style="list-style-type: none"> <li>35 000 to 50 000 MNT (individuals)</li> <li>75 000 to 200 000 MNT (entities)</li> <li>Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Use of an expired permit; transfer of permit or license to third party; attempt to use animal without valid license or permit [MLF § 27.1.1]	<ul style="list-style-type: none"> <li>5 000 to 10 000 MNT (individuals)</li> <li>50 000 (entities)</li> </ul>
	Using animal "without a license or special permit" [MLF § 27.1.5]	<ul style="list-style-type: none"> <li>10 000 to 50 000 MNT (individuals)</li> <li>50 000 to 250 000 MNT (entities)</li> </ul>
<b>TRADING</b>	It is prohibited to trade an endangered animal's skin, bone, or other raw materials. [MLF § 7.3]	
<i>Penalties</i>	Storing, selling, purchasing, or transporting the raw materials of rare animals. [MCC § 203.1]	<ul style="list-style-type: none"> <li>Punishable by fine (51 to 150x min. salary)</li> <li>Incarceration for 3 to 6 months</li> <li>Imprisonment for up to 3 years</li> </ul>

	Purchasing a rare animal's skin, fur, and other raw materials without permission [MLF § 27.1.3]	<ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals)</li> <li>▪ 150 000 to 250 000 MNT (entities)</li> </ul>
		<ul style="list-style-type: none"> <li>▪ Purchased items should be confiscated</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
<b>EXPORT</b> <i>CITES App.II</i>	May be exported if the specimen was legally obtained and if export does not threaten species survival. [CITES App.2]. No import permit is required. A permit is required to export (or re-export). The permit may be issued only if the specimen was obtained not in violation of national wildlife protection laws, and when the Mongolian CITES Scientific Authority confirms that exporting the animal will not be detrimental to the survival of the species.	
<i>Penalties</i>	Illegally exporting fauna listed in the CITES convention [Mongolian CITES Law § 15.1.1]	<ul style="list-style-type: none"> <li>▪ 50 000 MNT (citizens)</li> <li>▪ 60 000 MNT (officials)</li> <li>▪ 250 000 MNT (entities)</li> </ul>
	Use of expired authorization, or use of forged authorization/license [Mongolian CITES Law § 15.1.2]	<ul style="list-style-type: none"> <li>▪ 50 000 MNT (individual)</li> <li>▪ 250 000 MNT (entities)</li> <li>▪ Confiscation of illegally obtained animals</li> </ul>
<b>OTHER</b>	Advertising of rare animal products is prohibited under MLA § 14.1	<ul style="list-style-type: none"> <li>▪ 10 000 to 15 000 MNT (individual)</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> </ul>

## B.4 CITES Appendix II + Game Animal

<b>2 SPECIES</b>	<b>Grey wolf (<i>Canis lupus</i>)</b> <b>Pallas' cat (<i>Otocolobus manul</i>)</b>	
<b>HUNTING</b> <i>Game animal</i>	<p>Game animals may be hunted during permitted hunting seasons, using permitted methods, for the following purposes:</p> <ul style="list-style-type: none"> <li>Household purpose. (Citizens only.) Must pay fees and obtain a one-time, 3 to 5-day permit.</li> <li>Special purpose. (Citizens, economic entities and organizations.) Special permits are required for sport hunting; managing herd structure to respond to plagues or epidemics.</li> <li>Industrial purposes. Economic entities and organizations who have professional personnel, have a plan for sustainable harvest and are financially able to implement it may enter into a contract with soum governors on approval by the soum citizens' representative khural.</li> </ul>	
<i>Penalties</i>	Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools [MCC § 203.1]	<ul style="list-style-type: none"> <li>Punishable by fine (51 to 150x min. salary)</li> <li>Incarceration for 3 to 6 months</li> <li>Imprisonment for up to 3 years</li> </ul>
	Causing damage in an extraordinarily large amount [MCC § 203.2]	<ul style="list-style-type: none"> <li>Fine equal to 150-250x min. salary</li> <li>Three to five years' imprisonment</li> </ul>
	Hunting for household or special purposes without license or permit [MLH § 16.1.6]	<ul style="list-style-type: none"> <li>10 000 to 25 000 MNT (individuals)</li> <li>100 000 to 200 000 (entities)</li> </ul>
	Hunting for industrial purposes without establishing relevant contract [MLH § 16.1.7]	<ul style="list-style-type: none"> <li>35 000 to 50 000 MNT (individuals)</li> <li>150 000 to 250 000 MNT (entities)</li> </ul>
	Use of an expired permit, or transferring firearms, special animal hunting and trapping permit, or license to others [MLH § 16.1.1]	<ul style="list-style-type: none"> <li>5 000 to 10 000 MNT (individuals),</li> <li>50 000 (entities)</li> </ul>
	Hunting or trapping animals in green zones of cities or settlements for purposes other than culling or scientific research [MLH § 16.1.2]	<ul style="list-style-type: none"> <li>1 000 to 5 000 MNT (individuals),</li> <li>50 000 to 75 000 (entities)</li> </ul>
	Hunting by methods prohibited in the Mongolian Law on Hunting §§ 14 and 15 [MLH § 16.1.3] (see also MLH § 16.1.5)	<ul style="list-style-type: none"> <li>2 000 to 5 000 MNT (individuals)</li> <li>10 000 to 60 000 MNT (officials)</li> <li>50 000 to 100 000 MNT (entities)</li> </ul>
	Hunting outside of permitted season, hunting in excess of permitted amount [MLH § 16.1.4]	<ul style="list-style-type: none"> <li>10 000 to 15 000 MNT (individuals),</li> <li>75 000 to 100 000 MNT (entities)</li> </ul>
	<i>Additional penalties:</i> There shall be a criminal penalty for repeated violations of the above provisions of MLH §§ 16.1.2-7 [MLH § 16.1.8]. Weapons, instruments, wildlife products, and income derived shall be confiscated in the case of any illegal hunting. [MLH § 16.1.9] Persons guilty of illegal activities may be deprived of their drivers' license for up to two years [MLH § 16.1.10]	
<b>TRADING</b>		
<i>Penalties</i>		
<b>EXPORT</b>		
<i>Non-CITES</i>		
<i>Penalties</i>		
<b>OTHER</b>	Advertising about purchasing, selling, and processing animals, or producing their organs and/or raw materials, is prohibited during periods when the hunting or slaughter of those species has been prohibited by Government resolution. MLA § 14.2	10 000 to 15 000 MNT (individual) 50 000 to 250 000 MNT (entities)



## B.5 Rare Animal + no CITES listing

<b>4 SPECIES</b>	<b>Siberian ibex</b> ( <i>Capra sibirica</i> ) <b>Beech marten</b> ( <i>Martes foina</i> ) <b>Wild boar</b> ( <i>Sus scrofa</i> ) <b>Black-tailed gazelle</b> ( <i>Gazella subgutturosa</i> )	
<b>HUNTING</b> <i>Rare</i>	May be hunted or trapped pursuant to permits issued by the central government for: <ul style="list-style-type: none"> <li>▪ Scientific, research, cultural, artistic, and medicinal purposes [MLF § 7.5.1]</li> <li>▪ Pursuant to payment of special fees by foreigners and Mongolian citizens [MLF § 7.5.2]</li> <li>▪ For regulating the numbers of animals, or removing the sources of infectious diseases for certain areas. [MLF § 7.5.3]</li> <li>▪ For purposes of sport hunting. [MLH § 11.2.4]</li> </ul>	
<i>Penalties</i>	Hunting or catching a rare animal without permission [MCC § 203.1];  Storing, selling, purchasing, or transporting the raw materials of a rare animal [MCC § 203.1];  Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools [MCC § 203.1]	<ul style="list-style-type: none"> <li>▪ Punishable by fine (51 to 150x min. salary)</li> <li>▪ Incarceration for 3 to 6 months</li> <li>▪ Imprisonment for up to 3 years</li> </ul>
	Causing damage in an extraordinarily large amount [MCC § 203.2]	<ul style="list-style-type: none"> <li>▪ Fine equal to 150-250x min. salary</li> <li>▪ Three to five years' imprisonment</li> </ul>
	Smuggling rare animals across the state border [MCC § 175.1]	<ul style="list-style-type: none"> <li>▪ Fine equal to 51-150x min. salary</li> <li>▪ 251 to 500 hours of forced labor</li> <li>▪ Three to six months incarceration</li> </ul>
	Hunting animal without a valid license or special permit [MLF § 27.1.2]	<ul style="list-style-type: none"> <li>▪ 20 000 to 50 000 MNT (individuals),</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Causing a decline in numbers of rare species or destroying their habitat [MLF § 27.1.3]	<ul style="list-style-type: none"> <li>▪ Confiscation of animal parts, plus a fine of</li> <li>▪ 35 000 to 50 000 MNT (individuals), and</li> <li>▪ 150 000 to 250 000 (entities).</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Reintroducing or importing fauna without a license or permit [MLF § 27.1.4]	<ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals)</li> <li>▪ 75 000 to 200 000 MNT (entities)</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>
	Use of an expired permit; transfer of permit or license to third party; attempt to use animal without valid license or permit [MLF § 27.1.1]	<ul style="list-style-type: none"> <li>▪ 5 000 to 10 000 MNT (individuals)</li> <li>▪ 50 000 (entities)</li> </ul>
	Using animal "without a license or special permit" [MLF § 27.1.5]	<ul style="list-style-type: none"> <li>▪ 10 000 to 50 000 MNT (individuals)</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> </ul>
<b>TRADING</b>	It is prohibited to trade an endangered animal's skin, bone, or other raw materials. [MLF § 7.3]	
<i>Penalties</i>	Purchasing an endangered animal's skin, fur, and other raw materials without permission [MLF § 27.1.3]	<ul style="list-style-type: none"> <li>▪ 35 000 to 50 000 MNT (individuals)</li> <li>▪ 150 000 to 250 000 MNT (entities)</li> <li>▪ Purchased items should be confiscated</li> <li>▪ Criminal penalty for repeat offense [MLF § 27.2]</li> </ul>

<b>EXPORT</b> <i>Non-CITES</i>	Exporting rare animal parts across the state border is a crime.	Punishable by 5 years' imprisonment, with confiscation of property. [MCC § 203.2]
<b>OTHER</b>	Advertising of rare animal products is prohibited under MLA § 14.1	<ul style="list-style-type: none"> <li>▪ 10 000 to 15 000 MNT (individual)</li> <li>▪ 50 000 to 250 000 MNT (entities)</li> </ul>

## B.6 Game Animal + no CITES listing

<b>11 SPECIES</b>	<b>Siberian marmot</b> ( <i>Marmota sibirica</i> ) <b>Red fox</b> ( <i>Vulpes vulpes</i> ) <b>Corsac fox</b> ( <i>Vulpes corsac</i> ) <b>Siberian roe deer</b> ( <i>Capreolus pygargus</i> ) <b>Mongolian gazelle</b> ( <i>Procapra gutturosa</i> ) <b>Eurasian red squirrel</b> ( <i>Sciurus vulgaris</i> ) <b>Sable</b> ( <i>Martes zibellina</i> ) <b>Steppe polecat</b> ( <i>Mustela eversmanni</i> ) <b>Eurasian badger</b> ( <i>Meles meles</i> ) <b>Wolverine</b> ( <i>Gulo gulo</i> ) <b>Muskrat</b>	
<b>HUNTING</b>	Game animals may be hunted during permitted hunting seasons, using permitted methods, for the following purposes:	
<i>Game animal</i>	<ul style="list-style-type: none"> <li>Household purpose. (Citizens only.) Must pay fees and obtain a one-time, 3 to 5-day permit.</li> <li>Special purpose. (Citizens, economic entities and organizations.) Special permits are required for sport hunting; managing herd structure to respond to plagues or epidemics.</li> <li>Industrial purposes. Economic entities and organizations who have professional personnel, have a plan for sustainable harvest and are financially able to implement it may enter into a contract with soum governors on approval by the soum citizens' representative khural.</li> </ul>	
<i>Penalties</i>	Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools [MCC § 203.1]	<ul style="list-style-type: none"> <li>Punishable by fine (51 to 150x min. salary)</li> <li>Incarceration for 3 to 6 months</li> <li>Imprisonment for up to 3 years</li> </ul>
	Causing damage in an extraordinarily large amount [MCC § 203.2]	<ul style="list-style-type: none"> <li>Fine equal to 150-250x min. salary</li> <li>Three to five years' imprisonment</li> </ul>
	Hunting for household or special purposes without license or permit [MLH § 16.1.6]	<ul style="list-style-type: none"> <li>10 000 to 25 000 MNT (individuals)</li> <li>100 000 to 200 000 (entities)</li> </ul>
	Hunting for industrial purposes without establishing relevant contract [MLH § 16.1.7]	<ul style="list-style-type: none"> <li>35 000 to 50 000 MNT (individuals)</li> <li>150 000 to 250 000 MNT (entities)</li> </ul>
	Use of an expired permit, or transferring firearms, special animal hunting and trapping permit, or license to others [MLH § 16.1.1]	<ul style="list-style-type: none"> <li>5 000 to 10 000 MNT (individuals),</li> <li>50 000 (entities)</li> </ul>
	Hunting or trapping animals in green zones of cities or settlements for purposes other than culling or scientific research [MLH § 16.1.2]	<ul style="list-style-type: none"> <li>1 000 to 5 000 MNT (individuals),</li> <li>50 000 to 75 000 (entities)</li> </ul>
	Hunting by methods prohibited in the Mongolian Law on Hunting §§ 14 and 15 [MLH § 16.1.3] (see also MLH § 16.1.5)	<ul style="list-style-type: none"> <li>2 000 to 5 000 MNT (individuals)</li> <li>10 000 to 60 000 MNT (officials)</li> <li>50 000 to 100 000 MNT (entities)</li> </ul>
	Hunting outside of permitted season, hunting in excess of permitted amount [MLH § 16.1.4]	<ul style="list-style-type: none"> <li>10 000 to 15 000 MNT (individuals),</li> <li>75 000 to 100 000 MNT (entities)</li> </ul>
	<i>Additional penalties:</i> There shall be a criminal penalty for repeated violations of the above provisions of MLH §§ 16.1.2-7 [MLH § 16.1.8]. Weapons, instruments, wildlife products, and income derived shall be confiscated in the case of any illegal hunting. [MLH § 16.1.9] Persons guilty of illegal activities may be deprived of their drivers' license for up to two years [MLH § 16.1.10]	
<b>TRADING</b>	Section 119 of the Mongolian Criminal Code provides that individuals who create "potential danger of spread of plague and other virunal [sic] diseases through violation of the . . . rules . . . for combat of plague" may face a minimum of three to six months' imprisonment, up to two years. MCC § 119.1.	

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*Penalties*

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**EXPORT***Non-CITES*

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*Penalties*

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<b>OTHER</b>	Advertising about purchasing, selling, and	10 000 to 15 000 MNT (individual)
	processing animals, or producing their organs and/or raw materials, is prohibited during periods when the hunting or slaughter of those species has been prohibited by Government resolution. MLA § 14.2	50 000 to 250 000 MNT (entities)

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# APPENDIX C: RELEVANT LEGISLATION

## CONSTITUTION OF MONGOLIA

(relevant sections)

Adopted on 13 January 1992

### CHAPTER ONE. Sovereignty of the State

#### Article 6. Public Wealth, Restrictions for Foreigners

1. The land, its subsoil, forests, water, fauna, and flora and other natural resources are subject to national sovereignty and state protection.
2. The land except that in citizen's private ownership, as well as the subsoil with its mineral wealth, forests, water resources, and game is the property of the State.
3. The State may give for private ownership plots of land except pastures and areas under public and special use, only to the citizens of Mongolia. This provision does not apply to the ownership of the subsoil thereof. Citizens are prohibited to transfer the land in their possession to foreigners and stateless persons by way of selling, bartering, donating, or pledging as well as transferring to others for exploitation without permission from competent state authorities.
4. The State has the right to hold landowners responsible regarding the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection, or national security.
5. The State may allow foreign nationals, legal persons, and stateless persons to lease land for a specified period of time under conditions and procedures as provided by law.

# MONGOLIAN LAW ON ENVIRONMENTAL PROTECTION

(relevant sections)

30 March 1995

Ulaanbaatar

## CHAPTER ONE. General Provisions

### Article 4. The rights and duties of citizens in protecting the environment

1. Citizens shall have the following rights in protecting the environment:
  - 1) to bring claims for compensation for damage to their property or health resulting from adverse environmental impact against the person responsible for causing the damage;
  - 2) to commence legal action against persons whose conduct may cause adverse environmental impact or jeopardise the enforcement of legislation on environmental protection;
  - 3) to establish non-Governmental organisations and capital funds for protection of the environment;
  - 4) to obtain accurate information about the environment from relevant organisations;
  - 5) and
  - 6) to require relevant authorities to restrict or prohibit actions which may cause adverse environmental impacts and to prohibit the establishment of new business entities or organisations whose activities may cause adverse environmental impacts.
2. Citizens shall have the following duties to protect the environment:
  - 1) to comply with legislation on environmental protection;
  - 2) to acquire and use traditional knowledge and skills to protect the environment and to educate their children on ecology;
  - 3) to prevent adverse environmental impacts and to restore or compensate for any damage or loss in the form of adverse environmental impacts arising from their conduct.

\* \* \*

### Article 6. Ownership of natural resources

1. The land, its underground resources, forests, water, animals, plants and other natural resources shall be protected by the State and the authority of the people and the land, its underground resources, their wealth, forests, water and animals, unless owned by citizens of Mongolia, shall be the property of the State.
2. Unless otherwise provided by law, citizens, business entities, organisations, foreign citizens and legal persons may use natural resources upon the payment and collection of relevant fees in accordance with any contract, special permit, or licence.

\* \* \*

## CHAPTER TWO: Environmental Assessments, Databanks, and Research

### Article 8. Natural resource assessments

1. The term “natural resource assessment” shall include quantitative and qualitative assessments and financial valuations of the natural resource in question.
2. Natural resource assessments shall determine the quantity of natural resources and identify measures for the protection, proper use, and restoration of renewable resources and the results of such assessments shall be recorded and entered into the State Environmental Information Databank.
3. The central State administrative body shall establish an economic value for natural resources in co-operation with relevant organisations taking into account the ecological and commercial value of the natural resources.
4. The economic value shall form the basis for determining the level of payments and fees for resource use and the amount of compensation payable in the case of adverse environmental impacts and direct damage.

\* \* \*

## **CHAPTER FOUR. General Measures on Environmental Protection, Use and Restoration of Natural Resources**

### **Article 19. General methods and forms of environmental protection**

1. Mongolia shall have a financially secure national programme for environmental protection and ecological safety.
2. The State, its organisations and their officials shall protect the environment by means of the following general methods and forms:
  - 1) the prohibition of hunting and trapping very rare animals and the collection and preparation of very rare plants;
  - 2) the registration and protection of very rare and rare animals and plants by entry in the Red Book of Mongolia;
  - 3) the establishment of limits on and standards for adverse environmental impacts and assurance of their implementation;
  - 4) the conduct of ecological education programmes and education on national traditions and customs;
  - 5) the rewarding of the introduction and use of environmentally sound, clean, and efficient technologies;
  - 6) the establishment of hygienically sound areas to ensure a healthy and safe environment for cities, villages, and settled areas and protection of the sources of rivers, lakes, mineral water, springs, ponds, and other bodies of water.

\* \* \*

## **CHAPTER FIVE. Environmental Monitoring**

### **Article 26. Environmental monitoring**

1. The central State administrative body shall organise supervision of environmental protection and the proper use and restoration of natural resources and provide professional guidance.
2. Inspectors exercising the control of State borders, customs, veterinary, hygienic and disease services and mining and other officials required by law to exercise that control may be authorised to exercise the powers of State environmental inspectors and shall carry out inspection duties on the order of the Minister of Nature and Environment.
3. The general State environmental inspector, State chief inspectors and State inspectors shall work in the central State administrative body; State chief inspectors and State inspectors shall work in Aimags and the capital city, and State inspectors (hereinafter referred to as "State inspectors") and rangers shall work in Soums and Duuregs.
4. In relation to the appointment and dismissal of State inspectors:
  - 1) the Government shall have the power to appoint and dismiss the general State environmental inspector on the recommendation of the Minister of Nature and Environment;
  - 2) the Minister of Nature and Environment shall have the power to appoint and dismiss State chief inspectors and State inspectors in other central State administrative bodies, and Aimag and capital city State inspectors;
  - 3) Aimag and capital city Governors shall have the power to appoint and dismiss Soum and Duureg State inspectors on the recommendation of State chief inspectors;
  - 4) Soum and Duureg Governors shall have the power to appoint and dismiss rangers on the recommendation of Soum and Duureg State inspectors in accordance with rules established by the Government.

### **Article 27. Rights and duties of State inspectors**

1. State inspectors shall have the following rights:
  - 1) to supervise compliance with environmental legislation by citizens, business entities and organizations regardless of their jurisdiction;

- 2) to obtain information and data required for supervision from the appropriate citizens, business entities, and organizations;
- 3) to require citizens, business entities and organizations to eliminate adverse impacts or to suspend their activities if they adversely affect the environment in breach of environmental legislation, standards and permissible maximum levels;
- 4) to have free access to business entities and organizations to carry out supervision, take samples and have samples analyzed under their control;
- 5) in the event of natural disasters and States of emergency, to have priority in the use of public transport or rental of other means of transport;
- 6) to inspect the identification cards of that citizen and vehicles and in case of violation, to confiscate identification cards, and illegally hunted, collected, manufactured and explored natural resources, equipments, facilities and tools used during the inspection on the implementation of the environmental protection legislation; */This paragraph was re-edited by the Law of April 25, 2002/*
- 7) to impose administrative penalties on those in breach of environmental legislation as provided by law;
- 8) to supervise and instruct environmental rangers;
- 9) To confiscate vehicles used for serious violation. If the citizens, organizations and business entities don't agree the decision, the case shall be decided by court. */This paragraph was added by the Law of April 25, 2002/*
- 10) To send proposals on invalidating license, permission and rights of the organizations and business entities to deal with environmental business that violated legislation and technological procedure, to the authorized institutions and to get the them decided. */This paragraph was added by the Law of April 25, 2002/*
- 11) To require invalidating a decision of the organizations and officials that violated environmental legislation, or to submit a petition to the senior level institutions and to get it solved. */This paragraph was added by the Law of April 25, 2002/*

2. State inspectors shall have the following duties:

- 1) to comply strictly with environmental legislation and regulations and procedures established in conformity with them;
- 2) to keep records of environmental breaches (name of person in breach, address, action, damage caused, mitigating circumstances and matters of aggravation) signed by the person in breach, and, in the event of refusal, to make a written record of reasons for the refusal;
- 3) on imposing administrative penalties and suspending illegal activities by citizens, business entities, and organizations in breach of environmental legislation, to outline the means of calculating the penalty in accordance with legislative provisions and to fill out the standard official form and penalty sheet;
- 4) on taking measures to suspend or rectify breaches, to respect the right to privacy and legal interests of citizens, business entities and organizations and to maintain trade secrets;
- 5) to make inventories and to ensure the safety of confiscated items, weapons, tools and temporarily confiscated documents in accordance with legislative provisions, to provide the owners with copies and to transfer these items to authorized organizations within specified periods.

**Article 28. Rights and duties of rangers**

1. Environmental rangers shall have the following rights:

- 1) to exercise the rights of State inspectors within their territory in accordance with subparagraphs 1, 4, and 5 of paragraph 1 of article 27 of this law;
- 2) The rights of State inspectors under subparagraphs 6 and 7 of paragraph 1 of article 27 of this law shall be exercised only if permitted by law.

2. Rangers shall have the following duties in addition to those specified under paragraph 2 of article 27 of this law:

- 1) to take measures to prevent possible adverse environmental impacts and to protect natural resources in the area for which they are responsible;
- 2) to issue licences for the use of natural resources if provided by law;



- 3) in accordance with contracts and licences, to show citizens, business entities and organisations areas for natural resource use;
- 4) to conduct observations of changes to natural resources in their territory and to enter these records into databanks;
- 5) to inform the relevant Governor promptly of the occurrence of natural disasters or emergencies and to take measures to rectify any damage;
- 6) to organise the restoration of natural resources in their territory.

\* \* \*

## **CHAPTER SEVEN. Miscellaneous**

### **Article 37. Compensation for damage caused to the environment**

1. Citizens, business entities and organisations shall compensate for direct damage caused to the environment and natural resources as a result of their unlawful conduct.
2. Citizens, business entities and organisations may bring a claim in court against those in breach of environmental legislation requiring compensation for expenses incurred in restoring destroyed ecological balance and natural resources, evacuation of people, and moving animals and livestock from an area.
3. The fact that compensation has been paid by a person in breach, as provided in paragraphs 1 and 2 of this article, shall not constitute grounds for release from criminal or administrative liability pursuant to relevant legislation.

### **Article 38. Liability for breach of environmental protection legislation**

1. Persons in breach of environmental protection legislation shall be liable to criminal or administrative penalties in accordance with the nature of the breach and the amount of damage.
2. A judge or State inspector shall impose the following administrative penalties against a person in breach if the breach is not punishable under the Criminal Code:
  - 1) business entities and organisations which fail to fulfil obligations under paragraphs 3, 4, 5, and 6 of article 31 of this law shall be liable to a fine of 50,000 to 100,000 togrogs;
  - 2) officials using funds budgeted and allocated for environmental protection and restoration of natural resources for other purposes shall be liable to a fine of 10,000 to 20,000 togrogs and business entities and organisations shall be liable to a fine of 75,000 to 150,000 togrogs;
  - 3) citizens who do not comply with the requirements of paragraph 4 of article 9 and paragraph 3 of article 20 of this law shall be liable to a fine of 10,000 to 20,000 togrogs and business entities and organisations to a fine of 150,000 to 200,000 togrogs.

### **Article 39. Date of law coming into force**

This law shall come into force on 5 June 1995.

*Chairman of the State Ih Hural of Mongolia*

*N Bagabandi*

# MONGOLIAN LAW ON HUNTING

5 May 2000

Ulaanbaatar

## SECTION ONE. Purpose of the Law

### Article 1. Purpose of this Law

1. The purpose of this Law is to regulate the hunting and trapping of game animals and the proper use of hunting reserves.

### Article 2. Legislation on Hunting

1. The hunting legislation shall consist of the Constitution of Mongolia, the Mongolian Law on Environmental Protection, the Mongolian Law on Fauna, and the present Law and other legislative acts issued in conformity with them.

### Article 3. Game Animal Resources, Possession and Use of their Habitats

1. Game animal resources shall include those mammals, birds and fish that are native to, have been reintroduced to or are migratory within the territory of Mongolia.
2. Game animal habitat shall be defined as land, forest, and water where the living conditions for game animals are found.
3. Soum or Duureg Citizen Representative Khurals may establish the zones within game animal habitats for hunting and trapping for industrial, household and special purposes.
4. Citizens, economic entities, or organizations may possess and/or use game animal habitat pursuant to relevant laws, regulations and contracts in order to protect and properly use game animal reserves and prepare animal parts derived from hunting.

### Article 4. Hunting Management and Its Financing

1. Hunting Management shall refer to activities to develop the justification for the proper US conservation, and breeding of a territory's animal reserve by investigating and establishing the game animal's distribution, numbers, herd structure, reproduction, and hunting reserve.
2. Hunting Management reports and evaluations shall form the basis for the activities on the conservation, breeding, and proper use of game animal reserves.
3. Hunting Management shall be conducted by a Certified Professional Organization authorized by the State Administrative Central Organization in charge of environmental affairs (hereinafter referred to as State Administrative Central Organization).
4. The Aimag, Capital City, Soum and Duureg Governors shall ensure that, within their jurisdiction, Hunting Management is conducted once every four years and inventories conducted each year following hunting for industrial purpose.
5. Hunting Management shall be financed as follows:
  - 1) Expenses for conducting Hunting Management shall be financed by the State Central Budget and Hunting Reserve Use Fee.
  - 2) Citizens, economic entities, and organizations shall finance the Hunting Management for the land possessed or used by them pursuant to contract.

### Article 5. Hunting and Trapping Payment and Fee

1. Payments and fees shall be required for hunting and trapping game animals.
2. Payment and fee rates for hunting and trapping of game animals as well as the procedure for payment, reduction of and exemption from these fees shall be established by statute.

### Article 6. Right to Hunt or Trap Game Animals and Purposes

1. Those citizens who have studied the respective laws, obtained a license for possessing a gun and a permit pursuant to the relevant procedure, shall be authorized to hunt or trap game animals

2. Game animals may be hunted or trapped for the following purposes.

- 1) industrial;
- 2) household; and
- 3) special purposes

#### **Article 7. Hunting and Trapping Permits**

1. Citizens who hunt or trap for household purposes must obtain a permit. Citizens, economic entities and organizations that hunt or trap for special purposes must obtain a Special Permit. There shall be an agreement signed for hunting or trapping for industrial purposes.
2. Contract, permit and special permit forms for the hunting and trapping of game animals shall be adopted by the State Administrative Central Organization.

#### **Article 8. Establishing Hunting and Trapping limits**

1. The State Administrative Central Organization shall annually establish a maximum limit for game animals that may be hunted or trapped for industrial or household purposes for the territory of each Aimag and the Capital City based on the hunting animals' reserves and needs.
2. The Aimag and Capital City Citizen Representative Khural shall establish the maximum limit for the game animals that may be hunted or trapped in each Soum or their territory within the limits set in accordance §8.1.
3. An annual list of numbers of game animals that may be hunted or trapped for Special Purposes shall be established by the Cabinet Ministry based on recommendations from the State Administrative Central Organization.

#### **Article 9. Hunting and Trapping of Game Animals for Industrial Purposes**

1. Soum Governors shall enter into a contract on hunting and trapping of game animals for industrial purposes with economic entities and organizations which meet the following criteria;
  - 1) Have obtained a decision by the Soum Citizen Representative Khural;
  - 2) Have professional personnel and hunters;
  - 3) Have a plan for the protection and reproduction of game animals and are financially able to implement it.
2. The Game Animal Hunting and Trapping Contract shall define the species, quantity, hunting season, location, types, amount and. payment and fee for the animal parts to be procured as referred to in paragraph 9.1 of this Law.

#### **Article 10. Hunting and Trapping for Household Purposes**

1. Citizens referred to in paragraph 1 of Article 6 of this Law may hunt or trap game animals other than Rare Animals for their household needs after paying fees and obtaining a permit from the Soum Governor.
2. The Game Animal Hunting and Trapping Permit for household purposes shall list the names and surnames of the authorized citizen, names, species, quantity, hunting and trapping season, location, fee and payment amount of the animal to be hunted or trapped.
3. A one-time permit to hunt or trap game animals for household purposes issued to citizens of Mongolia shall be valid for:
  - 1) up to 3 days to hunt or trap birds and to fish;
  - 2) up to 5 days to hunt or trap game animals other than those referred to in subparagraph 10.3.1 of this Law.
4. The one-time permit specified in paragraph 10.3 may authorize hunting and trapping of up to 1 hoofed animal, 5 marmots, 1 other fur animal, 10 Hazel Grouse or Ptarmigan, or Rock Ptarmigan, or Daurian Partridge or Pallas Sand Grouse, 5 other forest, steppe or wetland birds, 2 Taimen and not more than 10 other fish.
5. Foreigners who temporarily or permanently reside within the territory of Mongolia may fish only for household purposes and on the basis of established fee rates for Mongolia citizens.

#### **Article 11. Hunting and Trapping for Special Purposes**

1. Rare animals may be hunted or trapped pursuant to a special permit issued by the State Administrative Central Organization. Permits for hunting and trapping other game animals shall be issued by the Soum and Duureg Governors.
2. Types of special permits for hunting and trapping of game animals:

- 1) Permits to hunt Rare animals for research, cultural, or artistic and medicinal purposes;
- 2) Permits for foreigners and Mongolia citizens upon payment of a special fee;
- 3) For purposes of managing herd structure of the game animals or treating areas where plagues or epidemics have occurred;
- 4) For purposes of sport hunting.

#### **Article 12. Orders for Hunting Firearms and Ammunition and their Use**

1. Orders for and distribution of hunting firearms and ammunition shall be planned and implemented on the basis of the maximum limits established by the State Administrative Central Organization for the game animals to be hunted or trapped.
2. Procedures for ordering and trading hunting firearms and ammunition shall be established by additional legislation.

#### **Article 13. Permitted Hunting Seasons**

3. Hunting and trapping of game animals for household and industrial purposes is permitted as follows:
  - 1) Siberian Roe Deer (*Capreolus pygargus*), White Tailed Gazelle (*Procapra gutturosa*), and Wild Boar (*Sus scrofa*) from 1<sup>st</sup> August until 1<sup>st</sup> December;
  - 2) Brown Bear (*Ursos arctos*) from 1<sup>st</sup> August until 16<sup>th</sup> November;
  - 3) Sable (*Martes zibellina*), Stone Marten (*Martes foina*), Raccoon Dog (*Nyctereutes procyonoides*), Eurasian Lynx (*Lynx lynx*), Wolverine (*Gulo gulo*), Red Fox (*Vulpes vulpes*) or Corsac Fox (*Vulpes corsac*), Brown Squirrel (*Sciurus vulgaris*), Alpine Weasel (*Mustela altaica*), Mountain Hare (*Lepus timidus*), Tolai Hare (*Lepus tolai*) from 21<sup>st</sup> October until 16<sup>th</sup> February of the following calendar year;
  - 4) Marmot (*Marmota sibirica* and *Marmota baibacina*) from 10<sup>th</sup> August to 16<sup>th</sup> October;
  - 5) Muskrat (*Ondatra zibethica*) from 16<sup>th</sup> October to 1<sup>st</sup> January of the following calendar year;
  - 6) Eurasian Badger (*Meles meles*) from 1<sup>st</sup> September to 1<sup>st</sup> November.
7. 13.2 Hunting of birds and fishing for household and industrial purposes is permitted as follows:
  - 8) Hazel Grouse (*Bonasa bonasia*), Ptarmigan (*Lagopus lagopus*), Rock Ptarmigan (*Lagopus mutus*), Pallas Sand Grouse (*Syrrhaptes paradoxus*), Black Grouse (*Lyrurus tetrrix*), and Western Capercaillie (*Tetrao urogallus*), from 1<sup>st</sup> September until 15<sup>th</sup> March of the following calendar year;
  - 9) Geese, ducks and other water and wetland birds from 1<sup>st</sup> April to 1<sup>st</sup> May and from 1<sup>st</sup> September to 21<sup>st</sup> October;
  - 10) Siberian whitefish (*Coregonus lavaretus*) from 20<sup>th</sup> October to 1<sup>st</sup> August;
  - 11) Fishing in Lake Buir from 1<sup>st</sup> August to 15<sup>th</sup> May of the following calendar year;
  - 12) Baikal Omul (*Caregonus autumnalis*) from 15<sup>th</sup> September to 1<sup>st</sup> December;
  - 13) Omul (*Coregonus peled*) from 15<sup>th</sup> November to 1<sup>st</sup> August of the following calendar year;
  - 14) Siberian Ide (*Leuciscus leuciscus*) from 1<sup>st</sup> August to 15<sup>th</sup> April of the following calendar year;
  - 15) Fishing for species other than those specified in subparagraphs 13.2.1 to 13.2.7 of this Article from 15<sup>th</sup> June to 1<sup>st</sup> April.
4. For the purposes of removing the sources of infectious disease and for scientific research, animals may be hunted or trapped outside the established hunting seasons.
5. The State Central Administrative Organization shall establish hunting seasons for animals not specified in paragraphs 13.1 and 13.2 of this law.
6. The State Central Administrative Organization shall establish the hunting seasons and fees for Special Purposes for those animals specified in paragraphs 13.1 and 13.2 and Rare game animals.

#### **Article 14. Prohibited Hunting and Trapping Methods, Firearms and Instruments**

1. The following methods, firearms and instruments are prohibited for hunting and trapping of animals:
  - 1) using chemical substances and explosives;
  - 2) digging pits, placing triggered guns and arrows or other traps on animal paths;

- 3) stalking hoofed animals in snow and forcing them to slide on the ice or fall from rocks or cliffs or setting traps;
- 4) using smoke or pouring water into marmot dens, using a noose or intentionally using dogs;
- 5) chasing animals by plane, helicopter or vehicle;
- 6) using guns, torches, electric shocks, forks, dams, or small nets to fish;
- 7) using a net to fish for household purposes;
- 8) using guns that are not designed for hunting animals.

#### **Article 15. Certain Prohibited Hunting and Trapping Activities**

7. The following hunting and trapping activities are prohibited:

- 1) hunting or trapping animals which are unable to protect themselves during natural disasters such as storms, drought, blizzard, flood, hail or fire or when they are stuck in rivers, lakes, swamps or mud;
- 2) hunting or trapping animals which are on their way to water sources or salt licks;
- 3) hunting or trapping migrating animals;
- 4) digging or damaging nests or dens of animals;
- 5) destroying or damaging enclosures, stables, fences, or any other facilities designed to protect or breed animals;
- 6) shooting without identifying the animal or only upon hearing noises made by it;
- 7) hunting offspring or collecting bird eggs or damaging them;
- 8) transferring firearms or special hunting permits to third persons;
- 9) bringing raw marmot meat or their wet skin into cities and settlements;
- 10) hunting or trapping animals in green zones of cities and settlements for purposes other than culling or to conduct scientific research;
- 11) for purposes of fishing for industrial purposes, net grids must not be larger than 30 x 30mm;
- 12) hunting or trapping animals in Aimags, Soums, Duuregs or the Capital City which have not conducted hunting management activities within the timeframe required by this law.

#### **Article 16. Liability for Violation of Hunting Legislation**

1. The following administrative penalties shall be applied by judges, environmental inspectors or rangers to persons who violated hunting legislation:

- 1) for use of an expired permit or transferring firearms, special animal hunting and trapping permit or license to others there shall be a fine of 5,000 up to 10,000 MNT for citizens and a fine of 50,000 MNT for economic entities and organizations.
- 2) for violation of 15.10 of this law, there shall be a fine of 1,000 to 5,000 MNT for citizens and a fine of 50,000 to 75,000 MNT for economic entities and organizations.
- 3) for violation of subparagraph 14.1.2, 14.1.3, 14.1.4, 14.1.6, 15.1.1, 15.1.2, 15.1.3, 15.1.5, 15.1.6, 15.1.7, 15.1.11 or 15.1.12 of this law, there shall be a fine of 2,000 to 5,000 MNT for citizens, a fine of 10,000 to 60,000 MNT for officials and a fine of 50,000 to 100,000 MNT for economic entities and organizations.
- 4) for violations of hunting season provisions defined in Article 13 of this law or for hunting or trapping animals in amounts exceeding those indicated in the relevant contracts, special permits or licenses, there shall be a fine of 10,000 to 15,000 MNT for citizens and a fine of 75,000 to 100,000 MNT for economic entities and organizations.
- 5) for violations of subparagraphs 14.1.1, 14.1.5, 14.1.7, 14.1.8, 15.1.4, 15.1.9, or 15.1.10 of this law, there shall be a fine of 10,000 to 20,000 MNT for citizens and a fine of 75,000 to 150,000 MNT for economic entities and organizations.
- 6) for hunting or trapping animals for household or special purposes without the relevant license or special permit, there shall be a fine of 10,000 to 25,000 MNT for citizens and a fine of 100,000 to 200,000 MNT for economic entities and organizations.

- 7) For hunting or trapping animals for industrial purposes without establishing the relevant contract, there shall be a fine of 35,000 to 50,000 MNT for citizens and a fine of 150,000 to 250,000 MNT for economic entities and organizations.
- 8) For repeated violations of 16.1.2 to 16.1.7 of this Article of this Law or for hunting or trapping rare animals or selling or buying their parts, there shall be a criminal penalty applied to the person found guilty.
- 9) Environmental state inspectors and rangers shall confiscate weapons and instruments, animals, and their hides, furs, meat, antlers, musk glands or any other animal parts and income from those who are responsible for illegal hunting or trapping of animals.
- 10) Persons guilty of illegal activities may be deprived for a period of up to 2 years of their driving license for automobiles, motorcycles or any other transportation used for illegal hunting or trapping of animals; as may be decided by relevant competent authorities, environmental inspectors or rangers concerned.

**Article 17. Rewards for Information Provided by Citizens**

1. Citizens who reveal persons liable for violation of legislation and provide information shall be rewarded by the Governor of the Soum or Duureg where such information is proved. The amount of such a reward shall be equal to fifteen per cent (15%) of the fine imposed or reimbursement for losses by those liable for violation of legislation.

*Chairman of the Mongolian Ikh Khural*  
*/s/ Gonchigdorj*

# MONGOLIAN LAW ON FAUNA

5 May 2000

Ulaanbaatar

## SECTION ONE. General provisions

### Article 1. Purpose of this Law

1. The Purpose of this Law is to regulate the protection and breeding of fauna permanently or temporarily residing in the soil, water or on land within the territory of Mongolia (hereinafter "fauna").

### Article 2. Legislation on Fauna

1. The legislation on fauna consists of the *Constitution of Mongolia*, the *Law on the Protection of the Environment*, the *Law on Special Protected Areas*, this Law and other legislative acts issued in compliance with them.
2. The hunting and trapping of fauna is regulated by the *Law on Hunting*.
3. The protection of livestock and domestic animals is regulated by the *Law on the Genefund of Livestock and Domestic Animals and Protection of their Health*.
4. If an international treaty to which Mongolia is a party is inconsistent with this Law, the provisions of the international treaty shall prevail.

### Article 3. Definitions

1. The following terms are used in this Law as defined below:
  - 1) "**Distribution area**" ("*tarxac nutag*") means the territory fauna reside in or migrate through or the territory suitable for residing and migration of fauna.
  - 2) "**Extremely rare animals**" ("*nen xovor am'tan*") means wildlife species that have a restricted capacity to recover, a limited distribution, no usable reserves and are in danger of extinction.
  - 3) "**Rare animals**" ("*xovor am'tan*") means fauna which have a limited capacity to recover, limited distribution, have a small population and are potentially in danger of extinction.
  - 4) "**Biotechnical measures**" ("*biotexnikiin arga xemzhee*") means activities aimed at improving the habitat and forage conditions of fauna.
  - 5) "**Reintroduction of fauna**" ("*sergeen nutagshuulax*") means deliberately transferring fauna to their previous habitat in order to protect and breed rare fauna and fauna in danger of extinction.
  - 6) "**Game animals**" ("*agnuurn am'tan*") means fauna traditionally hunted or trapped for the use of their hides, fur, meat or other animal parts and fauna which have the potential to be used.
  - 7) "**Game resources**" ("*agnuurn nööc*") means the potential size or quota of animals that may be hunted or trapped from their biological reserves without affecting the normal growth and reproduction of the animal (usable potential of animals).

### Article 4. Plenary Rights of Aimag and Capital City Citizens' Representative Assemblies and Governors

1. Aimag and capital city Citizens' Representative Assemblies have the following plenary rights concerning the protection of fauna:
  - 1) Approving measures and budgets for protection of extremely rare and rare fauna within their territory and exercising control over their implementation;
  - 2) Establishing limits within their territory according to provision 6.1.1 of this Law;
  - 3) Discussing the governor's reports and information from the databank on fauna;
  - 4) Other plenary rights as provided by law.
2. Aimag and capital city governors have the following plenary rights concerning the protection of fauna:
  - 1) Coordinating and ensuring the implementation of legislation and resolutions related to the protection of fauna;
  - 2) Implementing within their respective jurisdictions the provisions of articles 6.1.3, 6.1.7, 6.1.8, 6.1.9 and 6.1.11 of this Law;

- 3) Compiling data for the databank on fauna from sums and düüreks and submitting this to the central government organization;
- 4) Incorporating measures for the protection of fauna within their jurisdictions in their environmental programs and implementing such measures;
- 5) Other plenary rights as provided by law.

#### **Article 5. Plenary Rights of Sum and Düüreg Citizens' Representative Assemblies and Governors**

1. Sum and düüreg Citizens' Representative Assemblies have the following plenary rights:
  - 1) Approving measures and budgets for the protection of extremely rare and rare fauna within their jurisdictions and exercising control over their implementation;
  - 2) Discussing the governor's activity reports on the protection of fauna;
  - 3) Other plenary rights as provided by law.
1. Sum and düüreg governors have the following plenary rights:
  - 1) Implementing measures for the protection of the fauna within their jurisdictions according to the environmental programs in which the measures have been incorporated;
  - 2) Issuing permits for the use and possession of fauna to citizens and economic entities according to the procedures established by this Law;
  - 3) Other plenary rights as provided by law.

### **SECTION TWO. Protection of Fauna**

#### **Article 6. Methods for the Protection of Fauna**

1. The following methods shall be used in the protection of fauna:
  - 1) Setting limits for fauna use;
  - 2) Listing extremely rare and rare fauna in international and Mongolian "Red Books" as well as other relevant treaties and conventions;
  - 3) Maintaining the normal growth of fauna, protecting the territory of its distribution and ensure that their migration routes are clear;
  - 4) Protecting the genefund of fauna and their offspring;
  - 5) Establishing game reserves and regulating their use;
  - 6) Reintroducing fauna to its indigenous habitat;
  - 7) Protecting fauna from threats by industrial and economic activities;
  - 8) Taking biotechnical measures;
  - 9) Assisting fauna that is threatened by disease, natural disaster or other danger;
  - 10) Conducting scientific research aimed at establishing measures for the protection of fauna;
  - 11) Educating the public in the humane treatment of fauna and disseminating information through the public media regarding the protection of fauna.
2. The central government organization responsible for environmental issues (hereinafter the "central government organization") shall implement the measures indicated in paragraphs 6.1.1-6.1.6, 6.1.10-6.1.11, professional environmental organizations (hereinafter "professional organizations") shall implement the measures indicated in paragraphs 6.1.4, 6.1.6-6.1.9, and citizens and economic entities shall implement the measures indicated in paragraphs 6.1.7-6.1.9.

#### **Article 7. Protection of Extremely Rare and Rare Fauna**

1. Extremely rare fauna includes the following species: Asiatic Wild Dog (*Cuon alpinus*), Snow Leopard (*Uncia uncia*), Eurasian Otter (*Lutra lutra*), Gobi Bear (*Ursos arctos gobiensis*), Przewalskii horse (*Equus przewalskii*), Wild Bactrian Camel (*Camelus bactrianus ferus*), Musk deer (*Moschus moschiferus*), Reindeer (*Rangifer tarandus valentinae*), Moose (*Alces alces pfizenmayeri*), Saiga Antelope (*Saiga tatarica tatarica*), Mongolian Saiga (*Saiga tatarica mongolica*), Central Asian Beaver (*Castor fiber birulai*), Whooper Swan (*Cygnus cygnus*), Ring-necked Pheasant (*Phasianus colchicus*), Hooded Crane (*Grus monacha*), White-naped Crane (*Grus vipio*), Siberian Crane (*Grus*



*leucogeranus*), Houbara Bustard (*Chlamydotis undulata*), Dalmatian Pelican (*Pelecanus crispus*), Relict Gull (*Larus relictus*), Baikal Sturgeon (*Acipenser baeri baicalensis*), Amur Sturgeon (*Acipenser schrenki*), Tench (*Tinca tinca*), Amur Sculpin (*Mescottus haitej*), Emperor Moth (*Eudia pavonia*).

2. Extremely rare fauna may be hunted or trapped with special permits by the central government organization only for scientific purposes.
3. Hunting or trapping, preparing and trading hides, fur and other parts of extremely rare fauna for purposes other than specified in 7.2 are prohibited.
4. Any construction of industrial plants, power stations, chemical plants, railways or roads and mining activity within the territory of extremely rare fauna must be approved by the government based on the conclusions of an environmental impact assessment.
5. Rare fauna may be hunted or trapped for the following purposes according to a permit issued by the central government organization:
  - 1) Scientific, research, cultural, artistic and medicinal purposes;
  - 2) According to the payment of special fees by foreigners and Mongolian citizens;
  - 3) For regulating the number of fauna or removing the sources of infectious disease in certain areas.
6. The Government of Mongolia shall approve the list of rare fauna.

#### **Article 8. Establishing Limits for the Use of Fauna**

1. For the protection and reproduction of fauna, the central government organization may establish limits for the use of fauna during certain periods.

#### **Article 9. Reintroduction of Fauna**

1. The reintroduction of fauna shall be conducted by professional organizations according to permits issued by the central government organization and based upon the conclusions of scientific organizations.
2. The reintroduction of fauna shall be conducted according to the guidelines approved by the central government organization.

### **SECTION THREE. Ownership, Possession and Use of Fauna**

#### **Article 10. Ownership of Fauna**

1. As per the *Constitution of Mongolia*, game animals are the property of the state.
2. Unless otherwise specified by law, the raw materials of fauna hunted or trapped according to the amounts stated in the permits, contracts and agreements and following payment of the proper fees belong to the hunter or trapper.

#### **Article 11. Possession of Fauna**

1. Citizens and economic entities may possess and use fauna other than extremely rare fauna in order to protect, breed and use them under certain conditions according to a valid contract.
2. The regulations for possession and use of fauna by citizens and economic entities shall be established by the Government and regulated by the aimag and sum Citizens' Representative Assemblies.

#### **Article 12. Types of Use of Fauna**

1. The use of fauna means any activities carried out in order to use the specific characteristics of fauna according to the relevant laws and contracts without causing harm.
2. Fauna may be used in the following ways:
  - 1) For scientific, cultural, artistic and aesthetic purposes;
  - 2) For use of important aspects of fauna natural activities such as soil formation, pollinating of plant species and cleaning of nature;
  - 3) Use of animals to obtain the products of their living processes.
3. Other types of fauna use may be established by the central government organization.

#### **Article 13. Use of Fauna for Scientific, Cultural, Artistic and Aesthetic Purposes**

1. Use of fauna for scientific, cultural, artistic and aesthetic purposes, including observation, marking, drawing and photography, must be conducted without causing damage to the fauna or destroying its habitat.

2. Unless otherwise specified by law, permissions for use of extremely rare and rare fauna as indicated in 13.1 of this Law may be issued by sum and düüreg governors.

#### **Article 14. Use of Important Aspects of Fauna Natural Activities**

1. Use of important aspects of fauna natural activities must be implemented without causing damage to the fauna or health hazards.
2. Sum and düüreg governors shall issue permits for the use of fauna as specified in 14.1 of this Law.

#### **Article 15. Use of Fauna for Extraction of Products of Living Processes**

1. Use of fauna for extraction of products of their living processes, such as honey, antlers, velvet antlers or musk glands, must be implemented without causing harm or health hazards or destroying their habitat.
2. Permits for the breeding of fauna and use of animal parts for the purposes of producing medicine or any other by-products shall be issued by the central government organization.
3. Crossbreeding may be done in order to improve animal products.

#### **Article 16. Justification for Termination of a License to Use Fauna**

1. A license to use fauna shall be terminated in the following instances:
  - 1) There is no further need for the use of the fauna or its use has been refused;
  - 2) The term of the contract for the use of fauna has expired;
  - 3) The relevant fees have not paid;
  - 4) The economic entity authorized to use fauna has been dissolved;
  - 5) A violation of laws, regulations or contracts for the protection and sustainable use of fauna has occurred.

#### **Article 17. Animal Collections**

1. **Animal collections** ("*am'tny cugluulga*") include live or stuffed animals, skins, fur, bones and other animal products obtained for research or educational purposes.
2. Permits for animal collection by citizens and economic entities are issued by the central government organization.
3. Permits for the export of animal collections must be issued by the central government organization in compliance with any treaties to which Mongolia is signatory.

### **SECTION FOUR. Fauna Databank, Fees and Financing**

#### **Article 18. Fauna Databank**

1. The Fauna Databank consists of the following items:
  - 1) Data on fauna distribution, population size and assessments thereof;
  - 2) Research reports and data on fauna;
  - 3) Animal collections and embryos stored in laboratories;
  - 4) Information on the protection, sustainable use and breeding of fauna;
  - 5) Maps showing game animal distributions and population densities for each aimag and capital city.
2. Establishment of the fauna databank is regulated by the *Law on the Protection of the Environment*.

#### **Article 19. Fees for Use of Fauna**

1. The use of fauna by citizens and economic entities is subject to fees.
2. The rates of fees for the use of fauna, procedures for their payment and provisions for discounts and exemption from these fees are defined by separate legislation.

#### **Article 20. Fauna Protection Measures and their Financing**

1. Measures to protect fauna may be financed by local government budgets, financial support from citizens and economic entities, and international aid.
2. Measures to protect and define the distribution and population size of extremely rare and rare fauna must be financed from the state budget.
3. Measures to protect fauna other than extremely rare species must be financed as follows:

- 1) Measures to protect and breed fauna in a territory possessed and used by a citizen or economic entity on a contractual basis must be financed by the citizen and economic entity that has possession and use rights for the land concerned;
- 2) Measures for the protection and breeding of animals used by citizens and economic entities must be financed using their own private funding.

## **SECTION FIVE. Miscellaneous**

### **Article 21. Participation of Non-Governmental Organizations in the Implementation of Conservation and Breeding Measures for Fauna**

1. Fauna protection and breeding measures may be implemented by non-governmental organizations on a contractual basis to be established with local governors pursuant and according to permits issued by the central government organization.
2. Non-governmental organizations may carry out activities such as making proposals on improving measures to protect and use fauna, protect fauna and ensure the enforcement of relevant laws.

### **Article 22. Regulation of Population Size**

1. Actions may be taken to regulate the number of fauna in order to ensure ecological balance, protect human health and their safety, prevent infectious diseases to be spread to livestock and domestic fauna, remedy the sources of infectious disease, and to prevent damage to citizens and economic entities.
2. Regulation of population size must be implemented without damaging other species or destroying their habitat and normal growth.
3. Selective culling of rare fauna must be implemented by a professional organization according to a permits issued by the central government organization based on the conclusions of a scientific organization.
4. Culling and measures to combat fauna hazardous to the health of humans, other fauna and to the environment, including animals that cause epidemics or spread rabies and other infectious diseases, and animals with excessive populations must be implemented by the relevant professional organization.

### **Article 23. Export of Fauna**

1. The Government of Mongolia shall issue permits for the export of live extremely rare fauna in accordance with the treaties to which Mongolia is a signatory.
2. The central government organization shall establish procedures for the export of live fauna other than those covered by article 23.1 of this Law and the export of animal parts and research samples.

### **Article 24. Import of Fauna**

1. The import of fauna must be arranged in accordance with procedures approved by the central government organization.

### **Article 25. Reimbursement for Damage Caused to Fauna**

1. Persons liable for losses to fauna as a result of a violation of the legislation on fauna shall reimburse for the losses caused.
2. The amount assessed for reimbursement is double the ecological and economic assessment value determined by the Government.

### **Article 26. Rewards for Information Provided by Citizens**

1. Sum and düüreg governors shall provide a reward to any person who provides information on, identifies or helps to identify violations of the *Law on Fauna*, equivalent to 15 percent of the fines and compensations paid by the violator.

### **Article 27. Liability for Violations**

1. An environmental inspector may impose the following penalties for any violation of the legislation on fauna that is not subject to the *Criminal Code*, depending on the nature of the violation and the extent of damages caused:
  - 1) A fine of 5 000 to 10 000 MNT for a citizen or 50 000 MNT for an economic entity guilty of the use of an expired permit or of transferring a permit or license to a third party, or of an attempt to use fauna without a valid license or permit.
  - 2) A fine of 20 000 to 50 000 MNT for a citizen or 50 000 to 250 000 MNT for an economic entity guilty of hunting extremely rare and rare fauna without a valid license or special permit.

- 3) Confiscation of any animal parts and a fine of 35 000 to 50 000 MNT for a citizen or 150 000 to 250 000 MNT for an economic entity guilty of causing a decline in numbers of rare fauna, destruction of their habitat, or trading in their hides, fur and other parts.
  - 4) A fine of 35 000 to 50 000 MNT for a citizen or 75 000 to 200 000 for MNT for an economic entity guilty of reintroducing or importing fauna without a license or permit.
  - 5) A fine of 10 000 to 50 000 MNT for a citizen or 50 000 to 250 000 MNT for an economic entity guilty of the use of fauna without a license or special permit, and the used fauna must be returned to their habitat or given to the relevant organizations according to the central government organization's decision.
2. Criminal penalties shall be applied in the case of repeated violations of articles 27.1.2 to 27.1.4 of 27.1 of this Law or the hunting or trapping of extremely rare fauna, destruction of their habitat, or importing or trading in their hides, fur, or other parts.

/signature/ Chairman of the State Great Hural of Mongolia R. Gonchigdorj

*Translated/Proofread by Tsogt Gombosuren, Legal and Judicial English<>Mongolian Translator/Interpreter, Accredited by Ministry of Justice and Home Affairs, Certificate of Accreditation No 22 Signature: Date: November 29, 2006*

# CRIMINAL CODE OF MONGOLIA

(relevant sections)

## **TITLE SEVEN. Crimes Against Economy CHAPTER TWENTY. Economic crimes**

### **Article 175. Smuggling**

175.1 Smuggling of prohibited or restricted goods on a small scale; rare animals; as well as on a large scale currency, minerals, jewels, or other valuables; shall be punishable (with or without confiscation of property) by a fine equal to from 51 to 150 times the minimum salary; from 251 to 500 hours of forced labor; or from three to six months incarceration. */This section was amended on February 1, 2008/*

175.2. The same crime committed repeatedly, in a group, or by abuse of one's official post, as well as smuggling of items of historical and cultural heritage, museum exhibits, prehistoric animals and plant roots, archaeological or paleontological fossils shall be punishable by a fine equal to 100 to 250 amounts of minimum salary, 251 to 500 hours of forced labor or imprisonment for a term of 2 to 5 years. */This section was amended on February 1, 2008/*

175.3. The same crime committed by a recidivist, an organized group a criminal organization, or if it has caused damage in a large amount shall be punishable by confiscation of property and imprisonment for a term of up more than 5 to 8 years.

## **TITLE EIGHT. Crimes Against Public Security and Health CHAPTER TWENTY-THREE. Crimes against environment protection rules**

### **Article 203. Violation of the hunting legislation**

203.1 Causing damage in a large amount by hunting or catching animals in a strictly protected area, during a prohibited season, using a prohibited method, weapons, or tools; hunting, catching, or raising/taming rare animals without permission; or storing, selling, purchasing, or transporting the raw materials of such animals; shall be punishable by a fine equal to 51 to 150 times the minimum salary, incarceration for a term of more than 3 to 6 months, or imprisonment for a term of up to 3 years.

203.2 Causing damage in an extraordinarily large amount; hunting or catching a very rare animal; shall be punishable by a fine equal to 150 to 250 times the minimum salary, or from three to five years imprisonment.

*/This section was amended as of February 1, 2008/*

# AMENDMENT TO THE NATIONAL INSPECTION RULES FOR THE ENVIRONMENT

(unofficial translation)

## Resolution of the Government of Mongolia

(25.01.2001)

Number 97, Ulaanbaatar

1. That the National Inspection Rules be amended, and the amendments be enclosed in the appendixes.
2. That the Rules established by the Government of Mongolia on the 11<sup>th</sup> of November of 1995 be repealed.

*The Prime Minister N.Enhbayar*

*The Minister of Environment U.Barsbold*

[Enclosure: Appendix to the resolution 97 of 2001 from the Government of Mongolia]

## NATIONAL INSPECTION RULES FOR THE ENVIRONMENT

### SECTION ONE. General Provisions

1. The objective of the national inspection is to introduce government or non-government bodies, private entities and general public conservation laws, rules and regulations of using and rehabilitating the natural resources, and provide assessments or evaluation of the law implementation through the related organizations.
2. National inspection is to be provided by the Conservation Service-Government Agency (CSGA), Conservation services' sub-agencies of aimag and the capital, environment departments, National Protected Area Administration (NPAA), conservation inspectors.
3. Head of CSGA is the National General Inspector and is to be appointed or resigned according to the part 1, of the article 26 of the Environmental Law.
4. CSGA, NPAA and the senior conservation inspectors, rangers in the capital city, each aimag and soums, are to be appointed or resigned to the part 4, of the article 26 of the Environmental Law. The Senior Inspector is required to be majored in Conservation, have a MA with work experience of not less than 5 years.
5. Number of rangers, conservation inspectors in the capital, each aimag and soums to be conformed to the norm made by the Government.
6. To frontier/border control post, customs, police, vet, health professionals, mining control officers, the national inspection right is to be authorized by the Minister of Environment.
7. National inspectors, rangers are recognized conservation professionals and are representing government.
8. CSGA, the sub-agencies, Inspectors and rangers to be worked by this rule and the resolutions for the environmental protection made by the local autonomic entities or local NPAA or the Minister of Environment.
9. The general inspector, national inspectors, rangers to be used printed forms of punishment, reimbursement, conclusion about incidents of breaking the laws, official/specific requirement, violence records, resolution or solution to the problem etc.
10. CSGA will be responsible for collecting data from the local national inspectors, rangers and provide assessment of their performances, or training on improving qualification, work practices, methods as well as developing case studies and proposals for solving the problems if any.

### SECTION TWO. Directions

11. National Inspection is provided in the following directions:
  - 1) Implementation of the resolutions or laws and standard on using and rehabilitating of the earth, its entrails, resources, water, forest, air, fauna and flora.

- 2) Implementation of projects on conservation, rehabilitation, proper use of the natural resources.
- 3) Servicing or rehabilitation acts on use of the natural resources, or pollution, littering, waste substances etc.
- 4) Assessment about rehabilitation by the organizations, private entities, individuals whose production affect the environment.
- 5) Implementation the laws by the mining deposit research experts, eco-tourists.
- 6) Conservation and rehabilitation of the rare and very rare species of flora and fauna that are registered in the Red Data Book of Mongolia.
- 7) Protection of the National Park, SPA
- 8) Proper fulfillment of the rules and guidance of import/exporting, production/elimination, processing, keeping in store, transportation, wasting, and burying.
- 9) Execution of rules, regulations, and other measurements taken or made by the related authorized organizations.

### **SECTION THREE. State Inspector's rights and duties**

#### **12. National Inspectors are responsible for the following:**

- 1) He or she will provide inspection as stated in the 11<sup>th</sup> of this rule.
- 2) Keep records on incidences against the laws (when keeping the records, name of a person, address, action that violated the law, damage or loss, penalty need to be noted) and collect signature. If the person didn't sign-then describe the reason or the situation.
- 3) Penalty, confiscation, stopping illegal actions by individuals or private or non-private entities to be set to as stated in the law and to be done through the formal procedure as stated above in the rule( writing the records in printed forms)
- 4) When working to stop or eliminate poaching, remain respectful to the organizations' or individual's civil right, their legal interest and keep confidentiality accordingly.
- 5) When recording poachers, keep notes on what items are confiscated and give one copy to the owner and transfer his or her belongings to the related bodies within 14 days.
- 6) Work by the laws and rules, without outside interference, and fulfill the work duties honestly.
- 7) Remain fully responsible for veracity of a report of assessment, conclusion about the poaching act, record notes on quantity or situation of damages or loss, official/specific requirement for reimbursing or rehabilitating, penalty etc.
- 8) Replace and work for a conservation specialist, in case there is no one to fill the post in a locality.
- 9) Fulfill the other rules and regulations stated in the laws.

#### **13. Rights of the National Inspectors.**

- 1) Assess the realization of the laws by the local government or non-government organizations, private entities, individuals, without outside interference.
- 2) Require necessary or related to the conservation documents from gov. or non-gov. organizations, private entities and individuals.
- 3) On the basis of consensus, related specialists can be involved in the assessment campaign of conservation, and when necessary require from professional organizations such as lab. etc for a sample analysis.
- 4) When damages dangerous to life or harmful to the health of human, environment, put a ban or partial embargo on the causing actions of organizations or individuals and seek for a solution for elimination of the damages via introducing and proposing possible solutions to the related organizations. If proper measure is not taken, and the law doesn't state further solutions, then announce openly the cause of the damages for collecting votes to ban the production/operation.
- 5) Enter the factory, operation territory of the environmentally harmful or affecting productions for taking sample.

- 6) When natural disaster, accident, if there is necessity, NI can use or hire public transport despite the queue.
- 7) Check out document in case there is suspicion, or poaching, and collect personal data, check ID, poached wildlife, tools, including a car, that have been used. Confiscate the documents for a temporary period, sharps or guns, if necessary and transfer the items to the State Income Fund.
- 8) Define the damage or loss and harm to the environment and impose the related/involved body a compensatory payment.
- 9) Ban or stop temporarily the cause of damages, harm, or violating law cases and keep records and if necessary confiscate the production/property to transfer to the state income fund. The expenses related to the confiscating and transporting can be reimbursed from selling some of the confiscated items.
- 10) Sequester the license or certificate of the bodies that violated environmental laws, and discuss its validity term with the related organizations, including the ones who issued the permission.
- 11) If there is a serious damage that threatens to human life, and if the damage was from the acts constituting an offense inform the related organizations appropriately.
- 12) Make decisions or resolutions within the framework of the environmental control and make sure that the resolutions are realized appropriately.
- 13) If the resolutions and rules are not abided, but broken by organization or individuals, then sue the legal bodies for solution.
- 14) Other rights stated on the law and resolutions.

#### **SECTION FOUR. Ranger's Rights and Duties**

14. The following are the rights and duties of a Ranger

- 1) Fulfill the duties stated in the b,d,e,f,g,i from the article 12.
- 2) When imposing penalty, define the problem or damage as it describes in the laws and introduce proposal solutions to the inspector for the final decision.
- 3) Take preventive measures from the possible loss or damage and disasters.
- 4) Accord a license for using the natural resource, deposits by the appropriate rules and regulation.
- 5) Show the contractual site and provide a permanent control and assessment on fulfilling the agreement rules.
- 6) Observe and study about degradation of the natural resource, environmental state of the site and keep records on changes for the information fund.
- 7) In case there is a natural disaster or big loss or damage, inform the local authority, sub-agency of the national conservation inspectors for eliminating the loss.
- 8) Organize locally rehabilitation activities
- 9) Other rights and duties stated in the laws

15. Rangers' rights:

- 1) Implement "a,e, f" from the article 13 of this rule.
- 2) If stated in the law specifically- then fulfill the "h,i" from the article 13 of this rule.
- 3) Other rights stated in the law and regulation.

16. Impose an administrative penalty to ones who ignored the requirements of the NI, rangers for eliminating the cause of the problem or compensation payment.

#### **SECTION FIVE. Miscellaneous**

17. Any of government or non-government organizations, private entities and individuals are to be responding appropriately, within the time bound, to the requirements of CSGA, NPAA and the senior conservation inspectors, rangers in the capital city, each aimag and soums.



18. National inspectors and rangers are privileged to be provided by a transport for their work use, uniform, emblem, and bodyguard technique and tools-the term/duration of the time will be defined by the Central Organization of the State Administration of the Environmental Affairs.

19. If a member of organization that is examined considers a national inspector's conclusion as unwarranted or unfounded, or the rule was broken while the national inspector was conducting the examination- he or she may lodge/file her or his compliance to the examiner's higher authority within 10 days. In that case, the compliance will not become a justification of being released from compensation payments or absolved from liabilities or any other penalties. The National General Inspector is to go through the compliance document and resolute the case within 30 days.

20. If national inspectors or rangers do not fulfill their professional duties, or broke the rule, regulation- amenable to the responsibility or penalty stated in the related laws.

# MINISTRY OF NATURE AND ENVIRONMENT'S ORDER

## #114

April 26, 2006 # 114

Ulaanbaatar

Approving procedures and forms

Ministry of Environment's Order shall be based on the 31<sup>1</sup>.3.9 provisions of the Law on Environmental Protection.

The procedures on protection, utilization and possession of certain types of natural resources by herder communities shall be approved by supplement 1, the form of the contract to be made with herder communities engaging in environmental protection by supplement 2, the form of the certificate to be granted to herder communities by supplement 3.

State Administrative Management Department /Bolat.A/ shall be in charge of delivering the approved procedures and forms to the *Aimag* and Capital city Environmental Agencies, *Soum* and *Duureg* Citizens Representative Khural and Governors Offices, Environmental and Natural Resource Reserve Department /Banzragch.Ts/, Forest Policy Coordination Department /Ikhanbai.Kh/ and the heads of *Aimag* and Capital City Environmental Agencies shall carry out over the implementation and provide herder communities professional and methodological management.

The *Aimag*, Capital City, *Duureg*, *Soum*, Khoroo and Bag Governors shall be advised to provide protection, utilization and possession of natural resources by local citizens, under contract, taken into consideration of the local area peculiarities, pursuant to these procedures and regulations.

Minister ERDENEBAATAR

### PROCEDURES FOR CREATING PROTECTION, UTILIZATION AND POSSESSION OF CERTAIN NATURAL RESOURCES BY HERDER COMMUNITIES

#### One. Provisions

1.1. The main purpose is to regulate relationship related to conservation, use and possession of certain natural resources by herder communities, create collective management approaches, through encouraging the local citizens' engagement in the activities to provide a proper use and restoration of natural resources /forest, flora, fauna and so on/.

1.2. The regulation has been developed pursuant to §476, 481 of the Civil Law of Mongolia, §3, 4, 17, 31 of the Environment Protection Law and relevant provisions, §53 of the Law on Land, §3.2.3 of the Law on Forest, §5.2.2 of the Law on Fauna, §3.3, 3.4 of the Law on Hunting and §8.2.2, 8.2.3 of the Law on Buffer zone.

1.3. The nature conservation herder community (hereinafter referred to as "community") is a citizens' voluntary organization, according to §476 and 481 of the Civil Law of Mongolia that support citizens' cooperative activities, and §3.2.8 of the Environment Protection Law.

1.4. The communities carry out duties to protect, use and possess of natural resource reserves with the participation of local populations, within their territory, properly use the permitted quantity of natural wealth, pursuant to the related laws and procedures and prevent scarcity of natural resources.

1.5. The length of the cooperative management contract to be made with the herder community in charge of natural resource protection shall be five years and the length shall be extended by five years each time.

#### Two. Establishment of communities in charge of natural wealth conservation

2.1. The communities responsible for natural resource protection, under contract shall meet the following requirements.

2.1.1. Community members shall be united voluntarily and have a cooperative work contract, rules, action plan regarding nature protection and natural resource reserve management plan, approved by the all members' meeting.

2.1.2. The community rules shall contain its name, administrative and territorial division, address, location, the size and types of collective fund, as well as justifications and procedures on distribution and expenditure of the fund, enrollment and dismissal from the community, property and non-property liabilities, rights and obligations of the member, election of the community management, host of the meeting, rights and responsibilities regarding the community, directions and strategies of community activities and dismantle of the community.

2.1.3. The action program and management plan shall reflect activities regarding protection of forests, plants, animals and other secondary resources and provide their proper use, possession, raise and restoration, as well as biotechnical and nature conservation measures.

2.1.4. Financial, technical and technological resources to be spent on protection, rational use and enhance of natural resources shall be created by the collective fund, in accordance with the procedures described in §482 of the Civil Law.

2.2. The community members' number in Khangai region shall be more than 30 people (15 families), Gobi and Steppe region more than 20 people (10 families) and they shall be the citizens permanently residing in those areas.

2.3. One community can provide its activity up to 6.000 hectare of land in Khangai region, and 10.000 hectare in Gobi and Steppe region, taking into consideration of the map and region characteristics, described in 3.1 of this regulation. A community interested in protection of more than allotted amount, shall address to the *Soum* and *Duureg* Citizen Representatives Khural and then this Khural shall make a decision based on the proposal of the *Aimag* and City Environment Agency.

2.4. The communities that had been working prior to this regulation approved, shall be registered, make a contract and get a certificate, according to this regulation.

2.4.1. *Soum* and *Duureg* Governor shall manage to renew the contract made with the community, operating in the state territory, pursuant to the regulation procedures.

2.4.2. The two parties shall renew the contract within 3 months, after the statement on the contract renewal has been delivered to the community by the *Soum* and *Duureg* Governor.

2.4.3. *Soum* and *Duureg* Governor shall temporarily stop the community operation in the event the contract hasn't been renewed, within the due time, pursuant to the regulation.

### **Three. Determine the natural resource reserve and create**

#### **contract with the Governor**

3.1. The representatives of *Soum* and *Duureg* Citizen Representatives Khural shall approve the size of the area to be taken under the community protection and have *Soum* and *Duureg* Environmental Inspectors maintain the document.

3.2. *Soum* and *Duureg* Citizen Representatives Khural shall determine the size of the area, not exceeding the size, referred to in 2.3 of the regulation, taking into accounts of types of natural resources, landscape features, needs and demands for conserving and restoring endangered species.

3.3. Bag and Khoroo Governor shall have the community proposal on natural resource protection, discussed and concluded by the Citizens Local Khural of Bag and Khoroo, within 15 days, since the proposal is received.

3.4. The Citizens Local Khural shall be valid if the majority of the members are present in the meeting.

3.5. The matter of protecting natural resources by contract shall be decided by the majority of votes of the present members. Within a week they will make the decision known to *Soum* and *Duureg* Citizen Representatives Khural representatives

3.6. *Soum* and *Duureg* Citizen Representatives Khural shall decide the issue within 14 days, since the proposal is received.

3.7. The herder community shall send its application on natural resource conservation and related documents, referred to in §2.3.7 of Article 31<sup>1</sup> of Nature Protection Law. The following documents shall be attached to the application.

3.7.1. Community name, administrative and territorial subordination, temporary and permanent address, reference on natural resources to be protected.

3.7.2. The proposal supported by the Bag and Khoroo Citizens Local Meeting and the decision made by the *Soum* and *Duureg* Citizens Representative Khural.

3.7.3. The action plan regarding nature conservation and cooperative contract of the community members approved by the members' meeting of the community, in accordance with 2.1.2 of the regulation.

3.7.4. The contract on cooperation of the community administration and members

3.7.5. The location and distribution of natural resources and the volume of the area to be protected under contract.

3.7.6. The copies of the ID cards of the community members

3.7.7. The copy of the community codes.

3.8. *Soum* and *Duureg* Governor shall make a contract on natural resources to be protected, used and possessed by the community, in appropriate terms and periods, with the authorized representatives of the community, based on §17.1.5 of Nature Protection Law. The contract shall be made within 10 days, after the documents relevant to this regulation, Nature Protection Law and Civil Law, are received.

3.9. The contract, referred to in 3.8 shall include the following:

3.9.1. The justification of protecting natural resources by the herder community under contract /the decision of the Citizens Representative Khural/, the purpose of the contract and the length of the period, in which natural resources are to be protected and possessed.

3.9.2. Names of the community members,

3.9.3. The location, distribution and reserve of natural resources to be possessed,

3.9.4. The types and principles of liabilities and compensations in the event the contract, environmental legislation, nature conservation program and management plan are not fulfilled

3.9.5. Other issues negotiated by the two parties

#### **Four. Community's plenary rights and duties**

4.1. The community shall have the right to participate in making decisions and comments regarding natural resource use, get assistance and supports from governmental organizations of an appropriate level in the field of nature protection. The community is responsible for involving local citizens in natural wealth conservation, within their territory to be protected.

4.2. The community shall exercise the following rights and obligations unless they are described differently in other laws, contracts and nature conservation and management plan.

4.2.1. Be responsible for protecting natural resources within the territory pursuant to the contract.

4.2.2. Use side-line resources and other fruitful resources.

4.2.3. Establish a collective fund required for the implementation of nature protection activities and raise the fund by certain portion of income, generated from the use of natural and side-line resources, certain percentage of fines and compensation paid for the violation of the law and damages caused to the environment and members' donation.

4.3. Take measures to conserve forests, water resources, plant and animal species and other natural resources and prevent from their exhaustion.

4.4. According to the agreement of local state organizations, provide a proper use of natural resources, calculating the quantity of natural wealth suitable for carrying capacity of the ecosystem as said in the management plan, under monitoring.

4.5. With the respect to the contract made with the *Soum* and *Duureg* Governor, carry out inspections and stop illegal activities, under control of the state inspector, ranger and certified organizations working in the field of restoration, proper use and protection of natural wealth.

4.6. The communities shall fulfill the following duties:

4.6.1. Organize natural resource protection activities based on the majority of the members' ideas.

4.6.2. Lay down rules and make contracts in the scope of the activities and reflect the majority of the members' ideas and comments while making a decision.

4.6.3. Use secondary natural resources and other resources pursuant to the related law and regulation, distribute or allot 30% of the income generated from these activities to the collective fund and spend the fund on restoration measures.

4.7. Give true information on status of the natural resource reserve, constantly taking observations on the changes to the natural wealth, to the environmental inspector and ranger.

4.8. Submit the issues to the relevant legal organizations, related to the compensation of the damage caused by citizens, organizations and business entities, within their authorized region.

4.9. Pursuant to the law, use the secondary natural resources and other natural resources with fines, within their territory.

4.10. Establish procedures for posting signs for the protected areas and approve them, fence the hayfield and the areas for conducting research, experiment and restoration, but block of the visitors' entrance to the protected areas and migratory paths of the wildlife is prohibited.

#### **Five. Communities' rights and duties regarding protection of particular natural resources**

5.1. The community shall exercise the following rights and obligations concerning forest and plant resources.

5.1.1. Organize the activities to prevent the forest resource from fire, disease and insects, not graze the livestock into the forest during its regeneration, provide a proper and scheduled use of forest, take measures against the fire based on their capacity, immediately inform the fire case to the related authorities, in the event of the fire urgently extinguish and inform the bag and *soum* governor to get appropriate assistance, in case of lack of capacity.

5.1.2. Conduct the activities to grow, restore and enhance the forest and plant resources based on its fund and assistance from local organizations, within their protected area.

5.1.3. Protect, clean and maintain the forest and fulfill nature restoration measures, according to the guideline of professional organizations.

5.1.4. Register the cultivated forest to the forest fund in appointed time.

5.1.5. Prepare scheduled figures of timber for household and firewood purposes and use other secondary natural resources, according to the quantity permitted by the related law and regulation, license and origin certificate and monitor the preparation and transportation.

5.1.6. Enforce to implement the related law and regulations by travelers and visitors in the forest and remove the violations caused by them.

5.2. The community shall implement the following rights and duties regarding protection of hunting reserve.

5.2.1. Implement the activities in order to conserve and maintain the distribution of the animals, fish and birds and the original status of the area, with the assistance of relevant and certified organizations and community.

5.2.2. Determine the maximum level for the game animals to be hunted and trapped for household and other special purposes and monitor the hunting activities within the permitted seasons, as described in the relevant laws and regulations.

5.3.3. Pursuant to the 5.2.2 of the regulation, conduct control over the use of traps, nests and explosives that potentially bring about the damage to the wildlife reserve and stop any violent and guilty actions.

5.2.4. Take part in implementation of the activities to separate the focus of infection, and lessen the population of predators in cooperation with relevant organizations.

#### **Six. Soum, Duureg, Bag and Khoroo Governor's rights and duties regarding the community activities**

6.1. *Soum* and *Duureg* Governor shall exercise the following plenary rights.

6.1.1. According to the law, carry out control over implementation of the community activities, contracts and management plan through the state inspector and discuss the results.

6.1.2. Discuss the community members, receive their feedbacks and critiques, taking them into account for further implementation, make required changes to the contracts, submit the community members' comments and suggestions to the state organizations of a higher level, provide the members with the necessary information and host training, workshops and consultations for them by their request.

6.1.3. Organize the activities to introduce and promote community operations to local citizens and herders.

6.1.4. Monitor the community activities through the Bag governor.

6.1.5. Carry out investigations of the changes to the natural resource reserve, within their authorized zone, at least once a year.

6.1.6. Coordinate the community operation in a close relationship with the state and local policies and resolutions.

6.1.7. In cooperation with the *Soum* Citizens Representative Khural, fulfill the activities to conduct training and workshops regarding protection of certain natural resources by the community, taking into consideration features of the local area, establish and value the reserve of the natural resources and develop an overall management plan.

6.1.8. Immediately take measures against the fire in the forest and attacks to the natural resources, based on the information sent by the community members.

6.1.9. Coordinate the operation to raise the collective fund by the income generated from the use of natural resources and fines from the illegal use of natural wealth, within their contracted area.

6.2. Bag and Khoroo governors shall exercise the following plenary rights with respect to coordinate the community activities.

6.2.1. Control and guide connection of the community activities to the related laws and regulations, as well as local policies and resolutions.

6.2.2. Submit the proposal to the *soum* and *Duureg* governor, to stop any violent and guilty actions such as an improper use of natural resources, environment degradation and pollution.

6.2.3. In the bag citizens' local meeting, discuss and establish the issues concerning a pasture rotation, scheduled utilization of the rangeland, its restoration and protection of the natural resource reserve and monitor the implementation

### **Seven. Duties of the Aimag and Capital City Environmental Agency**

7.1. Conduct a constant control over the community operation, provide with professional consultancy and make expert analyses on natural resource utilization.

7.2. The following professional supports and assistance shall be rendered to the community.

7.2.1. Take registration of communities established in their authorized territory, through filling out the giving table and provide them with relevant legal information.

7.2.2. Host training with the aim to improve the members' qualification and capacity.

7.2.3. Help them choose a land and natural resources and provide them with consultancy regarding preservation of the natural resources.

7.2.4. Show the other supports by the request of the *Soum* and *Duureg* Governor.

7.3. Carry out control and assessment of the implementation of the nature conservation action program, natural resources management plan and other related laws and legislations and consider them for further operation.

7.4. Monitor the community operation, remove the committed violation and infraction and submit the proposal to terminate the contract, in case the contract terms are violated, to the *Soum* and *Duureg* Governor.

7.5. The state environmental inspectors shall carry out inspections of implementation of the nature protection laws, regulations and duties specified in the contract, have the members release the relevant data and facts, enforce the violators to remove the infraction and submit the proposal to stop the community operation, if deemed necessary.

7.6. Rangers shall be obliged to inspect the community activities, conducted within their territory, like the state environmental inspector and work with the purpose to implement the other rights and duties, identified in the related laws and regulations.

7.7. Besides cooperating with the community and supporting its activities, the state environmental inspectors and rangers shall submit the proposal to provide financial supports to the leading community and reward the best members.

7.8. Include certain *aimags* and *soums* into the annual schedule for natural resource use, based on the management plan and professional organizations' conclusions and grant related licenses on natural resource possession and utilization.

### **Eight. Dispute settlement**

8.1. The following illegal instances shall be the justifications of terminating the contract: poaching, cutting down the woods for a household purpose and preparation of firewood, harvesting nuts and secondary natural resources, collecting rare plants for medicinal, food and technical purposes, utilization of underground resources, alteration of the stream and rivulet flow and fishing.

8.2. Pursuant to the 31<sup>1</sup>.10.1, the bag and khoroo governor shall announce the Bag and Khoroo Local Citizens Khural within 10 days at least, in which the community rights will be cancelled.

8.3. There shall not be the limited number for the participants of the meeting, and their proposals shall be taken down and sent to the *Soum* and *Duureg* Citizens Representatives Khural together with the *soum* and bag proposals.

8.4. The head of the community shall be present in the meeting, in which the matter to cancel the community rights will be discussed and submit the decision to the Governor.

8.5. If the communities are in disagreement with the decision, they may submit their complaint to the governor of the next level or to the court.

8.6. The community members are obliged to tip off any violations and infractions are committed in their territory and the information shall be kept secret.

8.7. The *Soum* and *Duureg* Governor shall make a decision on transferring the area under the community protection, in the event of drought, heavy snowfall, fire, flood, infected disease and other natural disasters and emergencies, based on the community proposal.

8.8. If the community violated the law, the *Soum* and *Duureg* Governor shall determine the volume of the damage to the nature, caused by the community and take restorative measures; the size damage shall be established by the ecological and economic assessment for the reserve, based on the certified organization's conclusions.

8.9. The dispute between the community members shall be settled in the all members meeting.

8.10. In case the community members are in dispute with each other or some members are in dispute with the majority of the members, the dispute and argument shall be settled by Bag and Khoroo Citizens Local Khural. If several communities are in dispute, it shall be settled by the *Soum* and *Duureg* Governor and Citizens Representative Khural. In principle, the disputes related to the natural resource protection shall be settled, pursuant to the relevant laws and regulations.

# LAW ON REGULATING FOREIGN TRADE OF RARE ANIMALS AND PLANTS AND THEIR DERIVATIVES

Nov 7, 2002

Ulaanbaatar

## CHAPTER ONE. General Provisions

### Article 1. Purpose of the law.

- 1.1 The purpose of this law is to regulate relations arising out of and in connection with implementing the CITES (Convention on International Trade of Endangered Species, hereinafter, CITES) and granting authorization on international trade of animals and plants listed in the Convention appendices as well as trade of their derivatives, to individuals, entities and organizations.

### Article 2. Legislation on Regulating Foreign Trade of Rare Animals and Plants and Their Derivatives

- 2.1 Legislation on Regulating Foreign Trade of Rare Animals and Plants and Their Derivatives shall consist of the Law on Fauna, Law on Plants, Law on Hunting, Law on Customs, present law and other relevant legal acts and regulations issued in conformity herewith.
- 2.2 Provision of an international agreement/treaty that Mongolia has signed shall prevail over this law.

### Article 3. Effective scope.

- 3.1 This law shall be effective within the scope of international trade of rare animals and plants listed in the Convention appendices, and their derivatives including finished products.

## CHAPTER TWO. Organization in charge of the Convention implementation

### Article 4. Organization in charge of the Convention implementation

- 4.1 A provisional Coordination and Scientific Committee to oversee the Convention implementation shall be established under the state administrative organization in charge of nature and environment.
- 4.2 A Cabinet member in charge of nature and environment shall assign and dismiss members of the Coordination and Scientific Committee and approve the regulations to govern the functions of the Committee.
- 4.3 Coordination and Scientific Committee shall be comprised of the representatives of the state administrative organizations in charge of nature and environment, trade and industry, and food and agriculture as well as representatives of the customs and state inspection authorities and a representative of an environmental NGO.

### Article 5. Coordination Committee.

- 5.1 The Coordination Committee has the following rights and responsibilities:
  - 5.1.1 Undertake efforts to enforce the Convention in Mongolia
  - 5.1.2 Submit and have resolved by relevant plenipotentiary institutions the issues of accepting/rejecting amendments to the Convention appendices and providing additional explanatory remarks with regard to them
  - 5.1.3 Develop and submit to the Cabinet proposed amendments to the Convention appendices, draft resolutions and issues to be discussed by the parties to the Convention
  - 5.1.4 Authorize customs entry on export and import of animals and plants listed in the Convention appendices and their derivatives
  - 5.1.5 Certify re-export of animals and plants listed in the Convention appendices and their derivatives, and extraction and import of marine species as well as certify export of animals and plants listed in the Convention appendices and their derivatives harvested prior to ratifying the Convention.
  - 5.1.6 Submit relevant information to the Scientific Committee for the purpose of obtaining the conclusion and reference as per 6.1 of this law
  - 5.1.7 Submit annually a report on the Convention implementation to the Convention Secretariat



- 5.1.8 Oversee sale, elimination or release into the nature of confiscated animals and plants listed in the Convention appendices and their derivatives
- 5.1.9 Cooperate with other relevant organizations within the framework of this law

#### **Article 6. Scientific Committee**

- 6.1 The Scientific Committee shall be responsible for drawing conclusions and providing written verification on the following:
  - 6.1.1 Potential damage to an animal/plant listed in the Convention appendices 1 and 2 in case of exporting or bringing into the country upon harvesting from the sea
  - 6.1.2 Whether an importer of an animal listed in the appendix 1 of the Convention has a capacity to provide adequate care for the given animal
  - 6.1.3 That an animal listed in the appendix 1 of the Convention was obtained prior to ratifying the Convention; animal was domesticated and raised in captivity/plant was grown, and the derivatives hereof
  - 6.1.4 Potential damage to the environment in case of international trade of the species listed in the CITES appendices 1 and 2 and their derivatives
- 6.2 The Scientific Committee shall provide recommendations to the Coordination Committee on the following issues:
  - 6.2.1 Limiting export of species listed in the CITES appendix 2 based on the existing numbers
  - 6.2.2 Analysis on granting export and import authorizations on species listed in the CITES appendix 2 and their derivatives
- 6.3 In case of non-acceptance of the recommendations as per 6.2 of this law by the Coordination Committee and where the Scientific Committee deems necessary, the latter has a right to present the issue to the state administrative organization in charge of nature and environment, for consideration.

### **CHAPTER THREE. Regulating foreign trade of rare species and their derivatives**

#### **Article 7. Foreign trade of the species listed in the CITES appendices and their derivatives.**

- 7.1 Trade of animals and plants listed in the CITES appendix 1 and their derivatives, for profit-making purposes, is prohibited.
- 7.2 Animals and plants listed in the CITES appendix 1 and their derivatives can be traded internationally only for scientific research, placing in museums and zoos, and using for circus performances.
- 7.3 Animals and plants listed in the CITES appendix 2 and their derivatives can be traded for profit-making purposes.
- 7.4 International trade of animals and plants listed in the CITES appendices and their derivatives as per paragraphs 2 and 3 of this article shall abide by relevant rules and regulations to ensure their safety and integrity and use according to the stated purpose
- 7.5 The rules and regulations specified in 7.4 of this law shall be approved jointly by the Cabinet members in charge of nature and environment and customs.
- 7.6 International trade of the species listed in the CITES appendices constitutes violation of this law and is prohibited.

#### **Article 8. Authorizations and licenses.**

- 8.1 An individual, an entity and organization wishing to export, import, re-export, bring into the country upon harvesting from the sea the species listed in the CITES appendices and their derivatives shall submit a request for authorization to the Coordination Committee
- 8.2 The Coordination Committee shall accept and process the request
- 8.3 Authorization and license templates shall be approved by the Cabinet member in charge of nature and environment
- 8.4 An authorization/license granted shall be valid for six months from the day of issuance

8.5 Transfer of authorization/license to others is prohibited

#### **Article 9. Granting an authorization/license, refusing to grant**

9.1 The Coordination Committee shall grant an authorization/license in compliance with the following requirements:

- 9.1.1 Conclusion/reference as per 6.1.1, 6.1.2, and 6.1.3 of this law;
- 9.1.2 In case of export of the species listed in the CITES Appendices 1 & 2 and their derivatives, a conclusion as per 6.1.4 of this law, if deemed necessary.
- 9.1.3 written verification by a relevant local official/organization on the legitimate origin of the species and their derivatives
- 9.1.4 verification of the legitimate import of the species and their derivatives to be re-exported, in compliance with this law and relevant authorization
- 9.1.5 verification on transportation of the species concerned, in compliance with relevant rules and regulations and that relevant requirements have been complied with
- 9.1.6 import authorization from the country of origin of the species listed in the CITES appendix 1, in case of export
- 9.1.7 documentation/receipts to prove payment of fees on use of hunting resources, fee for authorizing trapping of an animal, and fees on use of plants, as applicable

9.2 The Coordination Committee is entitled to refuse to grant an authorization/license on the following grounds:

- 9.2.1 in compliance with the requirements as per 9.1 of this law;
- 9.2.2 in case when use of forged documents has been proven.

9.3 Authorization/license transferred to others and with effective period expired shall be deemed invalidated.

#### **Article 10. Exemption**

- 10.1 In case of domestication/captive breeding and growing of the species listed in the CITES appendix 1, by an individual, entity or organization, these shall be considered as species listed in the appendix 2 and authorization/license on international trade of these shall be granted as per this law.
- 10.2 Authorization is not required in case of import or export of the species listed in the CITES appendices and items that classify as their derivatives, for individual use by citizens of Mongolia, foreign citizens and individuals without citizenship unless an authorization from the importing country is required.
- 10.3 State administrative organization in charge of nature and environment shall develop a list of the species listed in the CITES appendices and items that classify as their derivatives, for individual use, as per paragraph 2 of this article, in consultation with the customs authority.
- 10.4 Authorization is not required in case of the transit of the species listed in the CITES appendices and their derivatives
- 10.5 Scientists and scientific research institutions registered at the CITES Secretariat may import the species listed in the CITES appendices and their derivatives, for non-profit use such as temporary use, gift, donation, exchange and use by a museum, without an authorization.

### **CHAPTER FOUR. Other**

#### **Article 11. Authorized border entry points.**

- 11.1 State administrative organization in charge of customs shall designate a border entry point to allow entry of the species listed in the CITES appendices and their derivatives, based on the recommendation of the Coordination Committee

#### **Article 12. Introducing amendments into the Convention and its appendices.**

- 12.1 The Coordination Committee shall develop a recommendation/conclusion on acceptance/rejection of the proposed amendments to the Convention and its appendices or proposals of additional explanatory comments and submit to the Cabinet within 14 days.
- 12.2 The Cabinet shall review and discuss within 30 days and submit a draft decision to the Parliament.

- 12.3 The Coordination Committee shall develop amendment proposals and submit to the Government
- 12.4 The Government shall discuss the proposals and in consultation with a relevant Standing Committee, shall inform the CITES Secretariat.

**Article 13. Monitoring the law enforcement.**

- 13.1 State administrative organization in charge of nature and environment, state administrative organization in charge of customs and local relevant organizations shall monitor enforcement of this law as per their respective mandate

**Article 14. Providing incentives to an individual who disclosed a law violation/provided valuable information**

- 14.1 In case of disclosure of the law violation by an individual or provision of valuable information that led to disclosure of the violation, provided that such information has been confirmed, the individual shall be entitled to an incentive equal to up to 20% of the penalty and retribution imposed on the violator, to be given by the state administrative organization in charge of nature and environment.

**Article 15. Penalties to be imposed on violators.**

- 15.1 Unless the violation of the legislation on foreign trade of rare species and their derivatives is a criminal offence, the judge and/or environmental/customs state inspector shall impose the following penalties on the perpetrator:
- 15.1.1 in case of violation of 7.6 of this law, an individual who administered international trade of the species listed in the CITES appendices without a relevant authorization shall be fined up to 50,000 tug; an official –up to 60,000 tug; an entity/organization – up to 250,000 tug, and the specimens traded shall be confiscated by the state
- 15.1.2 in case of violation of 8.5 of this law, use of expired authorization, use of forged authorization/license, up to 50,000 tug fine shall be imposed on an individual, up to 250,000 tug fine – on an entity/organization, and illegally obtained specimens shall be confiscated.

*Speaker of the Mongolian Parliament, S. Tumur-Ochir*

# **MNE Order No. 214, Appendix I (2001)**

By the Minister of Nature and Environment, Mongolia

## **OPERATION RULES FOR NATIONAL ENVIRONMENTAL INSPECTORS AND CONSERVATION OFFICERS**

### **Article 1: Prerequisites**

1. The goal of the rule is to provide the same guidance for all the national inspectors and environmental conservation officers throughout the country, on their reporting data, statistics on control works, organizing conservation activities, or supply for proper working condition.
2. National Inspectors and Conservation officers will be guided by the rules and regulations, including the national inspection rules set by the 97<sup>th</sup> resolution in 2001 by the Government of Mongolia, as well as the 5<sup>th</sup> article of the Environmental Law.

### **Article 2: Employment of National Inspectors and Conservation officers**

3. National Inspectors and Conservation officers will be appointed or resigned to the conservation and inspection rules, and the license will be accorded by the Minister of environment upon a reference from the General National Inspector.
4. The National General Inspector will supervise administrations of National Parks, Land officer, staff of the national inspection on conservation issues, the conservation services' sub-agencies of aimag and the capital city.
5. The government officers stated in the article 6 of the national inspection law, the Minister of Environment will accord the professional license upon reference from the National General Inspector.
6. Head of rural and urban Land office, the conservation services' sub-agencies in aimag and the capital city must submit and bring the following documents for accordance of an inspection license or extending the old license.
  - 6.1 Official letter of request for issuing a new license or extending the term of the old license from conservation services' sub-agencies in aimag and the capital city
  - 6.2 Copy of the resolution made by the local authority of conservation services' sub-agency
  - 6.3 Photo of 3:4
  - 6.4 Submit the old license, if extending the term.
  - 6.5 Upon receiving documents stated in 6.1, 6.4 the National General Inspector will introduce the proposal to the Minister of Environment and resolve the issue within 14 days.
7. Resigned or dismissed personals are to turn the things back in to the employer and return the license to the local conservation service agency within 5 days.
8. Employment of volunteer rangers to advertise the laws and provide control over their implementation, taking preventive measures of their violation, involving general public to the conservation activities or campaign.
9. Personal who is taking a inspection license newly or extending the old one-must bring a copy of the resolution to appoint the one to the post, along with 2 photos of 3:4 size, official letter or form of the related organization/employer, and the old license (if extending) to the Conservation agency-national services' office via the local sub-agencies of conservation.
10. Resigned or dismissed personals are to turn the things back in to the employer and return the license to the local conservation service agency within 7 days.

### **Article 3. Directions/orientation**

11. NI, conservation officers are responsible for
  - advertising environmental laws
  - implementing the laws
  - provide control over how others realize the laws
  - prevent from the violation of the laws
  - put a ban on a violating acts against the laws
  - require for compensation or rehabilitation of damage or loss
  - organize rangers' training or meeting, conference
  - improve performance of his or her work team
  - assess the team members' performance and provide consultation.
  - provide work report, statistics' data from controlling
  - Implementation of resolutions from the capital or local citizens' representatives' meeting, or the local governors
12. National senior inspectors are responsible for update and upgrade the skills of other inspectors and conservation officers of his or her locality.
13. Provide report and statistics within the given time.
14. Within the framework of his or her professional duties he or she must inform local authority about serious damages or harms and violation of laws, if there is any.
15. Volunteer ranger must inform local inspector and conservation officers about violation incidents and take preventive measurements and introduce his own solution proposals to the local inspector and conservation officer for the final decision.
16. Conservation services'-national agency will set the work rules of the volunteer rangers.
17. The conservation services' sub-agencies in aimags and the capital city will provide local national inspectors and conservation officers with printed forms of notes, penalty, compensation payment, report, records etc.

**Article 4. Documents of the national inspector and conservation officer**

18. The national inspector and conservation officer must have a license and emblem
19. Official print out forms is to be used when providing assessment and examination.
20. Except the penalty and compensation payment forms stated in the 17<sup>th</sup> of this rule- all official forms must be approved by the central Organization of the State Administration, upon recommendation/ agreement of the General Inspector.
21. When individuals or organizations are rejected to sign on a punishment form- inspectors and conservation officers must describe the incidence and submit another description signed by the third body for the proof by eyewitness.
22. The National General Inspector is to make decision on his own in the following circumstance:
  - 22.1 If individuals or organizations filed compliance about rejecting the administrative punishment on them imposed by the local inspector or conservation officer-then the General Inspector will revise the case and make a decision on his own.
  - 22.2 In case there is a huge damage caused to the environment –then he will decide the compensation amount, as a penalty.
  - 22.3 When confiscating big property, including car, highly valuable belongings from individuals or organizations.
  - 22.4 When there is a necessity of putting a ban on production or operation of individuals or organizations, private entities that are causing harm to the environment- the general inspector is allowed to make decision oh his own.
23. All national inspectors will write requirement on the following circumstances:
  - 23.1 Require to eliminate or stop illegal or harmful production to the environment, with feasible time bound

- 23.2 Provide accurate assessment in production or operation of individuals or entities that started functioning without prior assessment and conclusion about the production affect to its surrounding environment.
- 23.3 Take environmental protection measures, rehabilitation activities, elimination of soil and earth pollution (from strong chemical substances), cleaning from littering and other servicing.
- 23.4 Assess damage or harm that is caused to the environment and impose a reimbursement or compensation payment
- 23.5 Require individuals or entities to submit necessary documents, including official permission, license etc.
- 23.6 Require the individuals or entities who are depositing the natural resources pay for the use and transfer the payment to the state income account.
- 24. All inspectors can write an official requirement imposing a punishment or compensation amount by defining loss and harm or damages caused by individual producers or entities.
- 25. Cooperate with related specialists to define direct and indirect harms to the environment and write an official conclusion and requirement paper for recompensation.
- 26. The National General Inspector or local inspectors either must write down their name, title clearly or sign along with his or her official stamp.
- 27. When transferring the report or record forms- make sure that the official personal who receives the documents also signed and sealed with their stamp/ emblem.
- 28. All official papers need must be numbered as well as inspector or conservation officers own ID number and the numbers are restarted each year. ( inspector's ID number/ sequential number of official paper)
- 29. Administrative costs for publishing or printing forms of official papers must be covered from the state or local government budget, as states in the article 33 of the Environmental law.
- 30. Costs for publishing license, and making emblem for the inspectors and conservation officers shall be covered from the related state or individual local government organization's budget.
- 31. For reregistering, the capital and each aimag sub-agencies submit 2 copies of each license and emblem of inspector and conservation officers of one's locality and send one to the National agency of Conservation servicing by 31<sup>st</sup> of December every year.
- 32. The National agency of Conservation servicing will conduct the general registering based on the materials/documents sent from each sub-agency.
- 33. Confiscated items are to be transferred into the state fund by the resolution 131 passed by the Government in 1995, as well as the resolution 85 that passed by the Minister of Environment in 1997.

#### **Article 5. Writing a report of control**

- 34. Work reports need to be provided by the first and second half of a year, as well as annually/by one full year and must be sent to the local sub-agencies by 25<sup>th</sup> of June and December a year.
- 35. All data and statistics to be collided/pooled at each sub-agencies and sent to the national agency by 5<sup>th</sup> of July and in 5<sup>th</sup> of January. The head of the capital and aimag sub-agencies must be responsible for veracity of the submitted reports, collected data and statistics.
- 36. Head of sub-agencies, local authority such as aimag and soum governors must evaluate local national inspectors and conservation officers' performance and submit one's reference letter along with the half year, and annual reports to the National Agency of Conservation Servicing.
- 37. The National Agency of Conservation servicing will evaluate each inspector and conservation officer's performance, based on the submitted reports, statistics and references.
- 38. Administrations of Protected Areas must submit and send their performance reports ( how and where provided examination, assessment etc) to the Permanent Bureau of Environment and of Rural Development by the State Parliament, The Government of Mongolia, The Central

Organization of The State Administration for the Environmental Affairs by the 20<sup>th</sup> of July, and the 20<sup>th</sup> of January each year.

39. In case the reports and statistics constituting wrong or false information- resolute measures shall be taken accordingly by delegating an authorized inspector.
40. The resolute measures will be downgrading, resigning or dismissing the ones who performed inappropriately.

# MNE Order No. 159, Supplement No.3 (2002)

Mongolian Ministry of Nature and Environment

2002

## Description of animals, and their raw material derivatives

No.	Species name	Raw material name, type	Description
1	Marmot	Skin	
2	Mongolian gazelle	Whole carcass with skin	
3	Game fish	Meat	
4	Game birds (forest, steppe, and waterfowl)	Meat, feathers	Hazel grouse, ptarmigan, Rock partridge, Black grouse, goose, duck
5	Red fox	Skin	
6	Corsac fox	Skin	
7	Red deer	Blood antler	Blood antler produced from farmed red deer
8	Wild boar	Meat, skin, tusk	
9	Siberian roe deer	Meat, skin, antler	
10	Squirrel	Skin	
11	Hare	Meat, skin	
12	Eurasian badger	Skin	
13	Raccoon dog	Skin	
14	Siberian polecat	Skin	
15	Stone marten	Skin	
16	Siberian weasel	Skin	
17	Mountain hare	Skin	
18	Muskrat	Skin	



# **Collaboration Agreement Between Environment Inspection Department of State Specialized Inspection Agency and Inquiry and Investigation Department of Metropolitan Police Office**

July 27, 2003

## **One. General provisions**

- 1.1 The purpose of this agreement is to coordinate the collaboration: clearing up the crime, conflicts that's against the environment conservation procedure (special part of criminal law – 23) as soon as they arise, recording the case, investigating, decision making, and preventing.
- 1.2 Environment Inspection Department shall be responsible for the following: provide with information when crimes, conflicts committed, provide working condition for case recorder when it's necessary, provide professional support and decision making.
- 1.3 Inquiry and Investigation Department of the Metropolitan Police Office shall be responsible for the following: organize and provide professional guidance & leadership for the crime case recording under 1.1 of this rule.

## **Two. Duties of the Environment Inspection Department**

The Environment Inspection Department will organize and guide the following:

- 2.1 Introduce and implement a collaboration procedure for the Environment Inspection Department with related local Departments and staff.
- 2.2 Organize workshops about environment conservation laws and regulations for the staff of the Case Recording Department.
- 2.3 Send official papers and files to central and local Case Recording departments about crimes, conflicts and also pay attention assembling condition for case recording action.
- 2.4 Urgently inform Case recording department, staff about violations of the following environmental laws: (1) the Law on Air; (2) the Law on Hunting; (3) the Law on Protection and Usage of Minerals; (4) the Law on Protection from Toxic Chemicals; (5) the Law on Damage to the Soil and Land; (6) the Forest Law; (7) the Law on Natural Plants; (8) the Law on Steppe and Forest Fires; (9) the Law on Mining; and (10) other criminal violations of laws regarding nature and the environment.
- 2.5 State environmental inspectors, rangers inspect and make decisions about environmental conflicts
- 2.6 Respond to the statements, requirements sent by case reporter which is about eliminating the cause and circumstances of crime, by organizing preventing actions and report back.
- 2.7 Local Environmental offices, units, state inspectors, rangers shall double report to the Environment inspection department about above mentioned crime's, when and which police department the crime was informed and what was the decision.
- 2.8 Question about Case recording department's staff attending both abroad and local environment conservation trainings, workshops and also experience sharing from oversea countries shall be raised to the MNE and SSIA in order them to make a decision.

## **Three. Duties of the Case Reporting Department**

- 3.1 Organize and guide the following activities; introduce the collaboration procedure to the central and local staff of the case reporting department and conduct training courses for inspection and prosecution of crimes.

- 3.2 According to the report about violating the Environment conservation procedure, Case recording department staff shall quickly arrive at crime scenes and conduct investigations, securing the scene and collecting evidence to establish if a crime has occurred under the criminal inspection law.
- 3.3 A criminal case shall be initiated, and inspection and punishment take place, if there is enough evidence to prove the crime. The case inspecting procedure shall be reported to local police department, and serious cases shall be reported to authority at Case recording department.
- 3.4 Always send official papers and files about the result of inspections to the organization and officers who reported the crime.
- 3.5 A statement about the cause of the crime, and circumstances of eliminating such crime, must be sent to relevant offices for notice and comment.
- 3.6 During the process of inspection, members of the Case Reporting Department can expect support from the Environment Conservation Department and state inspectors, whenever needed.
- 3.7 The Case Recording Department shall report to related offices and departments about criminal activity nationwide, based on research about the causes, circumstances, and trends in criminal activity, as well as recommendations about crime prevention and interdiction.
- 3.8 Rewards and encouragement should be given to hardworking staff who actively inspect crimes, and to citizens who provide important, valuable information.
- 3.9 A plan for organizing united, nationwide actions to uncover environmental crime should be developed, with actions to be implemented per the MPD and SSIA's schedule.
- 3.10 The Case Recording Department shall assist environmental inspection department staff to improving their legal knowledge.
- 3.11 The Case Recording Department shall assist both central and local police case reporting departments and their staff; state environmental inspectors of all levels; and protected area rangers who are working to reveal, stop, and prosecute violations of environmental laws.
- 3.12 Based on the collaboration procedure, to show support and collaborate for providing police at the Environmental department, offices in some aimags which there are many environmental crime happens.

#### **Four. Miscellaneous.**

- 4.1 When collaborating, Environment inspection department and police office staffs shall observe the fair principle for preventing the crime, improving the result of inspection, revealing the crime and deciding liability for guilty individuals, entities, organizations.
- 4.2 Tendencies of collaboration inspection shall be prediscussed, and focused on department's seasonal, annual plan and implemented.
- 4.3 Each department shall be responsible for staff's mission and travel expenses.
- 4.4 To provide genuine press release about the decision making process of the crime and organize preventing actions.
- 4.5 Collected items shall be decided under the Criminal inspection law and Law on environment.
- 4.6 Both central, local case recording and environmental inspection departments, case recorders & state environment inspectors of all level shall follow this procedure.

# List of Codes for Products that Require Licenses for Export, Central Government Order #219, Appendix I (2002)

Засгийн Газрын 2002 оны 219 дүгээр тогтоолын 1 дүгээр хавсралт  
УЛСЫН ХИЛЭЭР ЛИЦЕНЗТЭЙ НЭВТРҮҮЛЭХ КОДЛОСОН БАРААНЫ ЖАГСААЛТ

Item code	Product description	Import/Export	Licensing agency
<b>АН АМЬТАН, ТЭДГЭЭРИЙН ГАРАЛТАЙ ТҮҮХИЙ ЭД, АН АМЬТНЫ ХОЛБОГДОЛТОЙ СУДАЛГААНЫ АЖЛЫН СОРЬЦ, ДЭЭЖ, МАЛ, АМЬТНЫ ҮР ХӨВРӨЛ, БИЧИЛ БИЕТНИЙ ӨСГӨӨР</b> (MNE, MTA)			
n/a	Very Rare animals (26 species named in the Law on Fauna)	Export	MNE (Засгийн газрын зөвшөөрлийн үндсэн дээр)
n/a	Rare animals (List of species to be approved by the central government, as per Law on Fauna)	Export	MNE
0507.90.11	Red deer blood antler	Export	MNE
0507.90.21	Red deer bone antler	Export	MNE
0507.90.29	Argali, ibex horns	Export	MNE
0510.00.11	Musk deer musk pod	Export	MNE
0510.00.12	Бугын чив засаа	Export	MNE
0511.10.00	Бухын үр	Export	MTA
0511.99.10	Үржлийн мал, амьтны үр (бухын үр орохгүй), ийлдэс	Export	MTA
0511.99.90	Үржлийнхээс бусад мал, амьтны үр хөврөл	Export	MTA
<b>УРАНЫ БУЮУ ТОРИЙН ХҮДЭР БА БАЯЖМАЛ</b>			
2612.10.00	Ураны хүдэр ба баяжмал	Export	SSIA
<b>БУУ, ЗЭР ЗЭВСЭГ, БАЙЛДААНЫ ХЭРЭГСЭЛ, ТЕХНИК, ТЭДГЭЭРИЙН ЭД АНГИ, ТОНОГ ХЭРЭГЛЭЛ</b> (байлдааны зориулалттай хэрэгсэл, техникийг улсын хилээр нэвтрүүлэхэд тусгай журмаар зохицуулна)			
93.01	Револьвер, гар буу болон БТКУ Системийн Зүйл 93.07-д заасан бусад зэвсгээс өөр цэргийн зориулалттай зэвсэг	Export, Import	ҮХЯ (Галт зэвсгийн тухай хуулийн 15 дугаар зүйлд заасан сонгон шалгаруулах комиссын шийдвэр, ҮХ-ны сайдын зөвшөөрлийн үндсэн дээр)
93.02	БТКУ Системийн Зүйл 93.03 буюу 93.04-т зааснаас бусад револьвер болон гар буу	Export, Import	"
93.03	Тэсэрдэг цэнэгээс гал авч ажилладаг бусад галт зэвсэг болон тэдгээртэй адил төстэй хэрэгсэл (жишээ нь: спортын үрлэн сумтай буу болон винтов, хар дариар гол төмрийг нь цэнэглэдэг буу, дохионы гар буу болон зөвхөн дохио өгөхөд зориулагдсан бусад хэрэгсэл, хоосон цэнэгтэй сумтай револьвер болон гар буу, толгойтой бялт хэлбэрийн ангийн буу, хийн буу)	Export, Import	"
93.04	БТКУ Системийн Зүйл 93.07-д зааснаас бусад зэвсэг (жишээ нь: пүрш, агаар, хийгээр ажилладаг буу, гар буу, цагдаагийн бороохой)	Export, Import	"
93.05	БТКУ Системийн Зүйл 93.01–93.04-т заагдсан бүтээгдэхүүний эд анги ба тоног хэрэгсэл	Export, Import	"
93.06	Бөмбөг, гранат, торпед, мина, тийрэлтэт сум болон тэдгээртэй төстэй байлдааны зэвсэг, тэдгээрийн эд анги, хонгиотой сум болон бусад зэвсгийн хэрэгсэл,	Export, Import	"

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сүм, тэдгээрийн эд анги (сүмны бөглөөс, жийрэг  
орно)

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MTA=Ministry of Trade & Agriculture

MNE=Ministry of Nature & Environment

SSIA=State Specialized Inspection Agency