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INFORMATION ABOUT NAMIBIA'S LAW

The Wildlife and Protected Areas Management Bill

The Wildlife and Protected Areas Management Bill has been under discussion for over 20 years. This proposed new law would introduce new approaches to nature conservation based around eight key principles: (1) maintaining and restoring biological diversity; (2) maintaining and restoring essential ecological processes; (3) promoting the sustainable use of wildlife; (4) providing State incentives for land rights holders to promote conservation and to maintain or rehabilitate ecosystems; (5) providing equitable access to the benefits of wildlife and other indigenous biological resources; (6) vesting ownership of wildlife in the State, unless otherwise provided in the law; (7) giving authority over the use of wildlife to the appropriate levels of society to ensure sustainable use and effective conservation of biodiversity and ecosystems; and (8) sharing responsibilities for managing shared resources.

These principles are consistent with Article 95(l) of the Namibian Constitution, which promotes the maintenance of ecosystems, essential ecological processes and biological diversity and the utilization of living natural resources on a sustainable basis for the benefit of all Namibians.

The Bill would replace the Nature Conservation Ordinance 4 of 1975, which has been amended 16 times since it came into force. It would also replace the Controlled Wildlife Products and Trade Act 9 of 2008 (as amended in 2017 and 2020), meaning that Namibia will continue to comply with the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) – which is an international

agreement between governments aiming to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

The Bill introduces several important new terms. For example, the word “protected area” would generally replace the current labels “game park” and “nature reserve”. The Bill also introduces the term “biodiversity” to provide for a more holistic approach to modern-day conservation. “Biodiversity” is defined in the Bill as including all living organisms from all sources, including species that live on land or in water, as well as the ecosystems which support them. The term “biodiversity” encompasses diversity within species and between species, and the diversity of entire ecosystems.

In addition to the protection of Namibia’s biodiversity and ecosystems, the Bill would provide a framework for protecting Namibia’s diverse cultural heritage in protected areas, including landscapes and sites of particular cultural and spiritual significance - which might include such diverse places as !Gobaob for the Hai||om in the Etosha National Park, the grave of Dorslandtrekker Johanna Alberts at Rietfontein, and the battlegrounds at Namutoni where the Ondonga and German soldiers fought in 1904.

The Bill would establish a Wildlife and Protected Areas Management Advisory Council which would replace the current Nature Conservation Board. Some of the key functions of the Advisory Council will be to promote co-operation and co-ordination on conservation issues relating to wildlife and protected areas management between the State, non-governmental organisations, community-based organisations, the private sector and funding agencies. The Council will also advise the Minister of Environment on the development of policies and strategies for the management, protection and use of wildlife and protected areas.

Notably, the Bill stipulates that protected areas must assist in the mitigation of the effects of climate change by connecting critical habitats and refuges for different species, to help them survive decreasing habitats. Therefore, since the impact of climate change is likely to become more severe in the future, the Bill envisages that protected areas will play an important role in the protection of Namibia’s biodiversity.

The Bill also stipulates the conditions under which prospecting and mining in protected areas can take place. Mining and prospecting would not generally take place in ecologically sensitive areas such as migratory corridors and unique habitats, wetlands,

permanent seasonal rivercourses; sites of high or unique cultural, historic or archaeological value; or areas inhabited by threatened or endangered species. In addition, it would not allow approvals for mining and prospecting in protected areas before a detailed assessment of the potential environmental impacts of the proposed activities is undertaken in terms of the Environmental Management Act, with adequate public consultation. Where mining and prospecting in protected areas is permitted, this must not undermine the management objectives of the protected area. An adequate rehabilitation plan for the proposed mining and prospecting activities must be developed and lodged with the Minister together with a rehabilitation deposit fee. These requirements ensure that the Minister must consider land right, human rights and environmental issues comprehensively before approving mining and prospecting in protected areas.

The Nature Conservation Ordinance was amended in 1996 to provide for the establishment of communal conservancies. Communal conservancies would be covered in the Bill, which would provide some provisions to strengthen conservancy rights. For example, the Bill stipulates that conservancies have exclusive tourism rights within their boundaries. It also defines the role that traditional authorities should play in the formation of conservancies, by advising on the allocation and use of communal land for this purpose and endorsing the application for a conservancy. In addition, when a community applies to become a conservancy, the Bill would require it to provide include a human wildlife conflict management and mitigation plan.

The Bill further includes features of the 2007 Tourism and Wildlife Concessions Policy. Concessions will only be granted where they are in line with the management and tourism development plans for a protected area or other State land. This includes among other things, conducting tourism and activities related to the sustainable commercial use of wildlife resources. Equally important is that concessions should facilitate the economic empowerment of formerly disadvantaged Namibians and rural communities living in and around protected areas and other State land, by generating revenue for employment creation, conservation and poverty reduction. Finally, the Bill retains most of the existing provisions on hunting and also provides rules for the “conservation hunting” profession.

It remains uncertain when the Wildlife and Protected Areas Bill will be tabled in Parliament. However, what is clear is that the Bill aims to consolidate Namibia’s existing

fragmented conservation legislation and perhaps more importantly, to provide guidance for the future on how to improve the management of Namibia's protected areas and wildlife.

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