



**CONVENTION ON
MIGRATORY
SPECIES**

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MEETING TO NEGOTIATE AN AGREEMENT ON THE
CONSERVATION OF GORILLAS AND THEIR HABITATS
UNDER THE CONVENTION ON MIGRATORY SPECIES
Paris, France, 22-24 October 2007

DRAFT
AGREEMENT ON THE CONSERVATION OF GORILLAS AND THEIR HABITATS
(NGAGI AGREEMENT)

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(Version 27 April 2007)

THE CONTRACTING PARTIES,

DETERMINED to implement the decision of the Conference of the Parties of the Convention on Migratory Species (CMS) to list gorillas (*Gorilla gorilla s.l.*) on Appendix I of the Convention;

NOTING that this listing was motivated by the unfavourable conservation status of the gorilla (*Gorilla gorilla s.l.*) and the conviction that they would significantly benefit from international cooperation that could be achieved by a multilateral Agreement;

AWARE of the exceptional significance of great apes for the natural and cultural heritage of humankind;

RECOGNISING that numerous and sound efforts have already been devoted both by governments and non-governmental organisations for the preservation of the various populations that constitute *Gorilla gorilla s.l.*;

DEEPLY CONCERNED by the continued rapid decline and persistent fragility of these populations, widely observed in spite of these efforts;

CONVINCED that the conservation of the species is intimately linked to that of the precious and exceptional forest habitats it frequents;

CONSCIOUS that the conservation of great apes has unique implications in terms of interactions with human use of the land and its resources as well as in relation to human health;

CONCERNED by the degradation of conservation status in the hindrance of conservation efforts brought about by the situations of tensions and conflicts within the range of gorillas;

NOTING that great ape populations in a favourable conservation status can constitute a considerable asset for countries and areas that hold them;

ENCOURAGED by the interest of Range States and all actors of African conservation in the preservation of the unique patrimonial value that gorillas represent;

ACKNOWLEDGING the outcome of the First Intergovernmental Meeting on Great Apes and the First Council Meeting of the Great Apes Survival Project (Kinshasa, September 2005), including the Global Strategy for the Survival of Great Apes and their Habitat;

FURTHER ACKNOWLEDGING the decision of the Fifth CMS Conference of the Parties to undertake a Concerted Action on *Gorilla beringei* and the need, noted by the Eighth

Conference in Resolution 8.5 to develop an appropriate instrument to support the Concerted Action for *Gorilla gorilla s.l.*;

CONVINCED that the conclusion of a multilateral Agreement and its implementation will contribute significantly to the conservation of gorillas and their habitats in the most efficient manner, and will have benefits for many other species of animals and plants; and

ACKNOWLEDGING that effective implementation of such an Agreement will require assistance to be provided to some Range States for research, training and monitoring of gorillas and their habitats, for the management of those habitats as well as for the establishment or improvement of scientific and administrative institutions for the implementation of this Agreement,

HAVE AGREED AS FOLLOWS:

ARTICLE I

Scope, Definitions and Interpretation

1. The geographic scope of this Agreement is the area occupied by the different species and sub-species of gorillas, as defined in Annex 1 to this Agreement, hereafter referred to as the "Agreement Area".

2. For the purpose of this Agreement:

- (a) "Convention" means the Convention on the Conservation of Migratory Species of Wild Animals, (1979);
- (b) "Convention Secretariat" means the body established under Article IX of the Convention;
- (c) "Gorillas" means the four taxa, two species and four sub-species: *Gorilla gorilla ssp. gorilla*, *Gorilla gorilla ssp. diehli*, *Gorilla beringei ssp. beringei* and *Gorilla beringei ssp. graueri*;
- (d) "Agreement secretariat" means the body established under Article VI, paragraph 7, subparagraph (b), of this Agreement;
- (e) "Parties" means, unless the context otherwise indicates, Parties to this Agreement; and
- (f) "Parties present and voting" means the Parties present and casting an affirmative or negative vote; those abstaining from voting shall not be counted amongst the Parties present and voting.

In addition, the terms defined in Article I, subparagraphs 1(a) to (k), of the Convention shall have the same meaning, *mutatis mutandis*, in this Agreement.

3. This Agreement is an AGREEMENT within the meaning of Article IV, paragraph 3, of the Convention.

4. The annexes to this Agreement form an integral part thereof. Any reference to the Agreement includes a reference to its annexes.

ARTICLE II

Fundamental Principles

1. Parties shall take co-ordinated measures to maintain gorillas in a favourable conservation status or to restore them to such a status. To this end, they shall apply within the limits of their national jurisdiction the measures prescribed in Article III, together with the specific actions determined in the Action Plan provided for in Article IV, of this Agreement.

2. In implementing the measures prescribed in paragraph 1 above, Parties should take into account the precautionary principle.

ARTICLE III

General Conservation Measures

1. The Parties shall take measures to conserve all populations of gorilla, all taxa being classified as critically endangered, or endangered, under IUCN Redlists (IUCN 2006).

2. To this end, the Parties shall:

(a) accord the same strict protection for gorillas in the Agreement Area as is provided for under Article III, paragraphs 4 and 5, of the Convention;

(b) identify sites and habitats for gorillas occurring within their territory and encourage the protection, management, rehabilitation and restoration of these sites, in liaison with those bodies listed in Article IX, paragraphs (a) and (b) of this Agreement, concerned with habitat conservation;

(c) coordinate their efforts to ensure that a network of suitable habitats is maintained or, where appropriate, re-established throughout the entire range of the four gorilla taxa concerned, in particular where occupied habitats extend over the area of more than one Party to this Agreement;

(d) investigate problems that are posed or are likely to be posed by human activities and endeavour to implement remedial measures, including habitat rehabilitation and restoration, and compensatory measures for loss of habitat;

(e) cooperate in emergency situations requiring international concerted action and in identifying the species which are the most vulnerable to these situations as well as cooperate in developing appropriate emergency procedures to provide increased protection to these species in such situations and in the preparation of guidelines to assist individual Parties in tackling these situations;

- (f) initiate or support research into the biology and ecology of gorillas including the harmonization of research and monitoring methods and, where appropriate, the establishment of joint or cooperative research and monitoring programmes;
- (g) analyse the training requirements for, *inter alia*, gorilla surveys, monitoring and forest conservation management to identify priority topics and areas for training, and cooperate in the development and provision of appropriate training programmes;
- (h) develop and maintain programmes to raise awareness and understanding of gorilla conservation issues in general and of the particular objectives and provisions of this Agreement;
- (i) exchange information and results from research, monitoring, conservation and education programmes; and
- (j) cooperate with a view to assisting each other to implement this Agreement, particularly in the areas of research and monitoring.

ARTICLE IV

Action Plan and Conservation Guidelines

1. An Action Plan is appended as Annex 2 to this Agreement. It specifies actions which the Parties shall undertake in relation to the four gorilla taxa and priority issues, under the following headings, consistent with the general conservation measures specified in Article III of this Agreement:
 - (a) species-taxa conservation;
 - (b) habitat conservation;
 - (c) management of human activities;
 - (d) research and monitoring;
 - (e) education and information; and
 - (f) implementation.
2. The Action Plan shall be reviewed at each ordinary session of the Meeting of the Parties, taking into account the Conservation Guidelines provided for in the Action Plan.
3. Any amendment to the Action Plan shall be adopted by the Meeting of the Parties, taking into consideration the provisions of Article III of this Agreement.
4. The Conservation Guidelines shall be submitted to the Meeting of the Parties for adoption at its first session, and shall be regularly reviewed.

ARTICLE V

Implementation and Financing

1. Each Party shall:
 - (a) designate the Authority or Authorities to implement this Agreement which shall, *inter alia*, monitor all activities that may have impact on the conservation status of those gorillas of which the Party is a Range State;
 - (b) designate a contact point for the other Parties, and communicate without delay its name and address to the Agreement secretariat to be circulated forthwith to the other Parties; and
 - (c) prepare for each ordinary session of the Meeting of the Parties, beginning with the second session, a report on its implementation of the Agreement with particular reference to the conservation measures it has undertaken. The format of such reports shall be determined by the first session of the Meeting of the Parties and reviewed as may be necessary at any subsequent session of the Meeting of the Parties. Each report shall be submitted to the Agreement secretariat not less than one hundred and twenty days before the ordinary session of the Meeting of the Parties for which it has been prepared, and copies shall be circulated forthwith to the other Parties by the Agreement secretariat.
2. (a) Each Party shall contribute to the budget of the Agreement in accordance with the United Nations scale of assessment. The contributions shall be restricted to a maximum of 25 per cent of the total budget for any Party that is a Range State or a regional economic integration organisation.
 - (b) Decisions relating to the budget and any changes to the scale of assessment that may be found necessary shall be adopted by the Meeting of the Parties by consensus.
3. The Meeting of the Parties may establish a conservation fund from voluntary contributions of Parties or from any other source for the purpose of financing monitoring, research, training and projects relating to the conservation, including protection and management, of gorillas.
4. Parties are encouraged to provide training and technical and financial support to other Parties on a multilateral or bilateral basis to assist them in implementing the provisions of this Agreement.
5. Parties are encouraged to develop viable fundraising mechanisms for the Agreement and associated conservation work until 2015.

ARTICLE VI

Meeting of the Parties

1. The Meeting of the Parties shall be the decision-making body of this Agreement.

2. The Depositary shall, in consultation with the Convention Secretariat, convene a session of the Meeting of the Parties not later than one year after the date of the entry into force of this Agreement. Thereafter, the Agreement secretariat shall convene, in consultation with the Convention Secretariat, ordinary sessions of the Meeting of the Parties at intervals of not more than three years, unless the Meeting of the Parties decides otherwise. Where it is possible to do so, such sessions should be held in conjunction with the ordinary meetings of the Conference of the Parties to the Convention.

3. On the written request of at least one third of the Parties, the Agreement secretariat shall convene an extraordinary session of the Meeting of the Parties.

4. The United Nations, its Specialized Agencies, any State not a Party to the Agreement, and the secretariats of international conventions concerned *inter alia* with the conservation, including protection and management, of gorillas, as well as forest management, may be represented by observers in sessions of the Meeting of the Parties. Any agency or body technically qualified in such conservation matters or in research on gorillas and forest management may also be represented at sessions of the Meeting of the Parties by observers, unless at least one third of the Parties present object.

5. Only Parties have the right to vote. Each Party shall have one vote. But regional economic integration organisations which are Parties to this Agreement shall, in matters within their competence, exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Agreement. A regional economic integration organization shall not exercise its right to vote if its Member States exercise theirs, and *vice versa*.

6. Unless provided otherwise in this Agreement, decisions of the Meeting of the Parties shall be adopted by consensus or, if consensus cannot be achieved, by a two-thirds majority of the Parties present and voting.

7. At its first session, the Meeting of the Parties shall:

- (a) adopt its rules of procedure by consensus;
- (b) establish an Agreement secretariat within the Convention Secretariat to perform the secretariat functions listed in Article VIII of this Agreement;
- (c) establish the Technical Committee provided for in Article VII of this Agreement;
- (d) adopt a format for the reports to be prepared according to Article V, paragraph 1, subparagraph (c), of this Agreement; and
- (e) adopt criteria to define emergency situations which require urgent conservation measures, and determine the modalities for assigning responsibility for action to be taken.

8. At each of its ordinary sessions, the Meeting of the Parties shall:

- (a) consider actual and potential changes in the conservation status of gorillas and the habitats important for their survival, as well as the factors which may affect them;
- (b) review the progress made and any difficulty encountered in the implementation of this Agreement;
- (c) adopt a budget and consider any matters relating to the financial arrangements for this Agreement;

- (d) deal with any matter relating to the Agreement secretariat and the membership of the Technical Committee;
 - (e) adopt a report for communication to the Parties to this Agreement and to the Conference of the Parties of the Convention; and
 - (f) determine the time and venue of the next session.
9. At any of its sessions, the Meeting of the Parties may:
- (a) make recommendations to the Parties as it deems necessary or appropriate;
 - (b) adopt specific actions to improve the effectiveness of this Agreement and, as the case may be, emergency measures as provided for in Article VII, paragraph 4, of this Agreement;
 - (c) consider and decide upon proposals to amend this Agreement;
 - (d) amend the Action Plan in accordance with Article IV, paragraph 3, of this Agreement;
 - (e) establish such subsidiary bodies as it deems necessary to assist in the implementation of this Agreement, in particular for coordination with bodies established under other international treaties, conventions and agreements with overlapping geographic and taxonomic coverage; and
 - (f) decide on any other matter relating to the implementation of this Agreement.

ARTICLE VII

Technical Committee

1. The Technical Committee shall comprise:
- (a) nine experts representing different regions of the Agreement Area, in accordance with a balanced geographical distribution;
 - (b) one representative from GRASP, UNESCO, IUCN, AWF...[to be completed]
 - (c) one expert from each of the following fields: forest management and conservation, environmental law.
2. The procedure for the appointment of the experts, the term of their appointment and the procedure for designation of the Chairman of the Technical Committee shall be determined by the Meeting of the Parties. The Chairman may admit a maximum of four observers from specialized international inter-governmental and non-governmental organizations.
3. Unless the Meeting of the Parties decides otherwise, meetings of the Technical Committee shall be convened by the Agreement secretariat in conjunction with each ordinary session of the Meeting of the Parties and at least once between ordinary sessions of the Meeting of the Parties.
4. The Technical Committee shall:
- (a) provide scientific and technical advice and information to the Meeting of the Parties and, through the Agreement secretariat, to Parties;
 - (b) make recommendations to the Meeting of the Parties concerning the Action Plan, implementation of the Agreement and further research to be carried out;

- (c) prepare for each ordinary session of the Meeting of the Parties a report on its activities, which shall be submitted to the Agreement secretariat not less than one hundred and twenty days before the session of the Meeting of the Parties, and copies shall be circulated forthwith by the Agreement secretariat to the Parties; and
- (d) carry out any other tasks referred to it by the Meeting of the Parties.

5. Where in the opinion of the Technical Committee there has arisen an emergency which requires the adoption of immediate measures to avoid further deterioration of the conservation status of one or more gorilla taxa, the Technical Committee may request the Agreement secretariat to convene urgently a meeting of the Parties concerned. These Parties shall meet as soon as possible thereafter to establish rapidly a mechanism to give protection to the taxon identified as being subject to particularly adverse threat. Where a recommendation has been adopted at such a meeting, the Parties concerned shall inform each other and the Agreement secretariat of measures they have taken to implement it, or of the reasons why the recommendation could not be implemented.

6. The Technical Committee may establish such working groups as may be necessary to deal with specific tasks.

ARTICLE VIII

Agreement Secretariat

The functions of the Agreement secretariat shall be:

- (a) to arrange and service the sessions of the Meeting of the Parties as well as the meetings of the Technical Committee;
- (b) to execute the decisions addressed to it by the Meeting of the Parties;
- (c) to promote and coordinate activities under the Agreement, including the Action Plan, in accordance with decisions of the Meeting of the Parties;
- (d) to liaise with non-Party Range States and to facilitate coordination between the Parties and with international and national organizations, the activities of which are directly or indirectly relevant to the conservation, including protection and management, of gorillas;
- (e) to gather and evaluate information which will further the objectives and implementation of the Agreement and to arrange for appropriate dissemination of such information;
- (f) to invite the attention of the Meeting of the Parties to matters pertaining to the objectives of this Agreement;
- (g) to circulate copies of the reports of the Authorities referred to in Article V, paragraph 1, subparagraph (a), of this Agreement and of the Technical Committee, along with copies of the reports it must provide pursuant to paragraph (h) of this Article, to each Party not less than sixty days before the commencement of each ordinary session of the Meeting of the Parties;
- (h) to prepare, on an annual basis and for each ordinary session of the Meeting of the Parties, reports on the work of the secretariat and on the implementation of the Agreement;
- (i) to administer the budget for the Agreement and, if established, its conservation fund;

- (j) to provide information for the general public concerning the Agreement and its objectives; and
- (k) to perform such other functions as may be entrusted to it under the Agreement or by the Meeting of the Parties.

ARTICLE IX

Relations with International Bodies dealing with Gorillas and their Habitats

The Agreement secretariat shall consult:

- (a) on a regular basis, the Convention Secretariat and, where appropriate, the bodies responsible for the secretariat functions under Agreements concluded pursuant to Article IV, paragraphs 3 and 4, of the Convention which are relevant to gorillas, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, (1973), the African Convention on the Conservation of Nature and Natural Resources, (1968) and the Convention on Biological Diversity, (1992), with a view to the Meeting of the Parties cooperating with the Parties to these conventions on all matters of common interest and, in particular, in the development and implementation of the Action Plan;
- (b) the secretariats of other pertinent conventions and international instruments in respect of matters of common interest, including GRASP and UNESCO; and
- (c) other organizations competent in the field of conservation, including protection and management, of gorillas and their habitats, as well as in the fields of research, education and awareness raising.

ARTICLE X

Amendment of the Agreement

1. This Agreement may be amended at any ordinary or extraordinary session of the Meeting of the Parties.
2. Any Party may propose an amendment.
3. The text of any proposed amendment and the reasons for it shall be communicated to the Agreement secretariat not less than one hundred and fifty days before the opening of the session. The Agreement secretariat shall transmit copies forthwith to the Parties. Any comments on the text by the Parties shall be communicated to the Agreement secretariat not less than sixty days before the opening of the session. The Secretariat shall, as soon as possible after the last day for submission of comments, communicate to the Parties all comments submitted by that day.
4. An amendment to the Agreement other than an amendment to its annexes shall be adopted by a two-thirds majority of the Parties present and voting and shall enter into force for those Parties which have accepted it on the thirtieth day after the date on which two thirds of the Parties to the Agreement at the date of the adoption of the amendment have deposited their instruments of acceptance of the amendment with the Depositary. For each Party which

deposits an instrument of acceptance after the date on which two thirds of the Parties have deposited their instruments of acceptance, the amendment shall enter into force on the thirtieth day after the date on which it deposits its instrument of acceptance.

5. Any additional annexes and any amendment to an annex shall be adopted by a two-thirds majority of the Parties present and voting and shall enter into force for all Parties on the ninetieth day after the date of its adoption by the Meeting of the Parties, except for Parties which have entered a reservation in accordance with paragraph 6 of this Article.

6. During the period of ninety days provided for in paragraph 5 of this Article, any Party may by written notification to the Depositary enter a reservation with respect to an additional annex or an amendment to an annex. Such reservation may be withdrawn at any time by written notification to the Depositary, and thereupon the additional annex or the amendment shall enter into force for that Party on the thirtieth day after the date of withdrawal of the reservation.

ARTICLE XI

Effect of this Agreement on International Conventions and Legislation

1. The provisions of this Agreement do not affect the rights and obligations of any Party deriving from existing international treaties, conventions or agreements.

2. The provisions of this Agreement shall in no way affect the right of any Party to maintain or adopt stricter measures for the conservation of gorillas and their habitats.

ARTICLE XII

Settlement of Disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of this Agreement shall be subject to negotiation between the Parties involved in the dispute.

2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

ARTICLE XIII

Signature, Ratification, Acceptance, Approval, Accession

1. This Agreement shall be open for signature by any Range State, or regional economic integration organization, at least one member of which is a Range State, either by:

(a) signature without reservation in respect of ratification, acceptance or approval; or

- (b) signature with reservation in respect of ratification, acceptance or approval, followed by ratification, acceptance or approval.
- 2. This Agreement shall remain open for signature at [XXX] until the date of its entry into force.
- 3. This Agreement shall be open for accession by any Range State or regional economic integration organization on and after the date of entry into force of the Agreement.
- 4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depository.

ARTICLE XIV

Entry into Force

- 1. This Agreement shall enter into force on the first day of the third month after at least [three] Range States or regional economic integration organization have signed without reservation in respect of ratification, acceptance or approval, or have deposited their instruments of ratification, acceptance or approval in accordance with Article XIII of this Agreement.
- 2. For any Range State or regional economic integration organization which has:
 - (a) signed without reservation in respect of ratification, acceptance, or approval;
 - (b) ratified, accepted, or approved; or
 - (c) acceded to this Agreement after the date on which the number of Range States and regional economic integration organizations necessary to enable entry into force have signed it without reservation or have ratified, accepted or approved it, this Agreement shall enter into force on the first day of the third month following the signature without reservation, or deposit, by that State or organization, of its instrument of ratification, acceptance, approval or accession.

ARTICLE XV

Reservations

The provisions of this Agreement shall not be subject to general reservations. However, a specific reservation may be entered by any State or regional economic integration organization on signature without reservation in respect of ratification, acceptance or approval or, as the case may be, on depositing its instrument of ratification, acceptance, approval or accession in respect of any species covered by the Agreement or any specific provision of the Action Plan. Such a reservation may be withdrawn at any time by the State which had entered it, by notification in writing to the Depository; such a State or regional economic integration organization shall not be bound by the provisions which are the object of the reservation until thirty days after the date on which the reservation has been withdrawn.

ARTICLE XVI

Denunciation

Any Party may denounce this Agreement by written notification to the Depositary at any time. The denunciation shall take effect twelve months after the date on which the Depositary has received the notification.

ARTICLE XVII

Depositary

1. The original of this Agreement, in the English and French languages, each version being equally authentic, shall be deposited with the Government of [XXX] which shall be the Depositary. The Depositary shall transmit certified copies of these versions to all referred to in Article XIII, paragraph 1, of this Agreement, and to the Agreement secretariat after it has been established.

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

3. The Depositary shall inform all States and regional economic integration organizations that have signed or acceded to the Agreement, and the Agreement secretariat, of:

- (a) any signature;
- (b) any deposit of instruments of ratification, acceptance, approval or accession;
- (c) the date of entry into force of this Agreement and of any additional annex as well as of any amendment to the Agreement or to its annexes;
- (d) any reservation with respect to an additional annex or to an amendment to an annex;
- (e) any notification of withdrawal of a reservation; and
- (f) any notification of denunciation of the Agreement.

4. The Depositary shall transmit to all States and regional economic integration organizations that have signed or acceded to this Agreement, and to the Agreement secretariat, the text of any reservation, of any additional annex and of any amendment to the Agreement or to its annexes.

In witness whereof the undersigned, being duly authorized to that effect, have signed this Agreement.

Annex 1

Application of the Agreement

This Agreement applies to the following Range States:

Angola (Cabinda), Cameroon, Central African Republic, Congo Republic, Democratic Republic of Congo, Equatorial Guinea (Rio Muni), Gabon, Nigeria, Rwanda and Uganda.

Annex 2

Action Plan

A draft transboundary regional Action Plan for the Gorillas and their habitats will be based and make use of existing national, regional and GRASP plans. It will also connect the Action Plan to the existing UNESCO World Heritage Sites in the region, and develop synergistic working mechanisms.