



## Endangered Wildlife Trust

### Position Statement on Legalising the International Trade In Rhino Horn

The Endangered Wildlife Trust's (EWT) mission is to conserve threatened species and ecosystems in southern Africa to the benefit of all people.

This statement represents the EWT's position on legalising the international trade in rhino horn. The EWT has been actively involved in efforts to reduce rhino poaching since April 2010 with the launch of the Rhino Security Project<sup>1</sup>.

Rhino poaching in South Africa has escalated dramatically since 2008, with 83 rhinos being poached that year compared to the 13 poached in 2007. This trend continued in 2009 (122 rhino poached), 2010 (333), and 2011 (448). In 2012 the official statistics indicated that at least 668 rhinos were poached for their horns. As South Africa is home to ~77% of the world's remaining rhinos<sup>2</sup>, it is imperative that measures be put in place to reduce poaching and protect rhinos.

The South African government placed a moratorium on national trade in rhino horn (Government Gazette No. 31899, Notice No. 148, 13 February 2009) in an attempt to stop horns bought legally in the domestic market being exported illegally to Asian countries. During November 2010, the Department of Environmental Affairs (DEA) convened a National Rhino Summit with the aim of developing a strategy for government in the fight against rhino poaching. Based on findings at this summit the South African government concluded that a study to determine the feasibility and viability of lifting the moratorium to legalise national trade in rhino horn should be commissioned and, should the outcome of the study be positive, the Minister of Water and Environmental Affairs should consider initiating the process towards legalising the trade in rhino horn. In December 2011, the DEA commissioned the EWT to undertake a formal investigation into legalising the national trade in rhino horn as a possible intervention to curb rhino poaching. The report containing the findings of the research was completed in October 2012 but is still to be published. The EWT's position as outlined in this document has been informed by this research as well as a variety of other sources.

#### CURRENT LEGAL SITUATION IN SOUTH AFRICA REGULATING RHINO

##### International

South Africa joined the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1975. CITES aims to ensure international trade in specimens of wild animals and plants does not threaten their survival.

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<sup>1</sup> [www.ewt.org.za/programmes/LPP/rhinoproject.html](http://www.ewt.org.za/programmes/LPP/rhinoproject.html)

<sup>2</sup> "[The South Africa—Viet Nam Rhino Horn Trade Nexus: A deadly combination of institutional lapses, corrupt wildlife industry professionals and Asian crime syndicates](#)"; TRAFFIC, 2012



The Minister of Water and Environmental Affairs published Regulations<sup>3</sup> in terms of the National Environmental Management Biodiversity Act, 10 of 2004 whereby CITES regulations were formally incorporated into South African legislation.

In terms of CITES, species are listed in Appendices I, II or III, depending on the level of protection required. Appendix I include species threatened with extinction and trade in their specimens is only permitted in exceptional circumstances. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilisation incompatible with their survival.

Currently, the Black Rhino (*Diceros bicornis*) is listed under Appendix I and may therefore not be traded internationally, except under exceptional circumstances. However, during the 13<sup>th</sup> Conference of the Parties (CoP) held in March 2005, a resolution was passed through which South Africa obtained permission to hunt five Black Rhino bulls per annum for trophies, and that these hunting trophies were to be exported to the hunters' countries of residence.

Since 1994, the South African White Rhino (*Ceratotherium simum*) has been listed under Appendix II with the annotation - *For the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and in hunting trophies. All other specimens shall be deemed to be specimens included in Appendix I and the trade in them shall be regulated accordingly.* International trade may therefore take place, but only for the off-take of rhino through sport hunting by foreign nationals and the export of live rhino to appropriate and acceptable destinations. All other rhinos or rhino derivatives are still listed on Appendix I which means that no international trade may take place. In other words the commercial international sale of rhino horn is prohibited.

### **National**

The National Environmental Management Act, 107 of 1998 (NEMA) was passed in November 1998 and came into force in January 1999. It is a framework Act covering natural resource use and conservation, pollution control and waste management, and land-use planning and development. NEMA also provides for environmental management principles and Section 2 (4) (a)(vi) specifically states *'that the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised.'*

The National Environmental Management: Biodiversity Act, 10 of 2004 (NEMBA) regulates the management and conservation of South Africa's biodiversity and its components and affords protection to species and ecosystems that are in need of national protection. Chapter 4 of NEMBA as well as the accompanying Threatened or Protected Species Regulations (ToPS) specifically deals with the protection and conservation of listed threatened or protected species as well the trade in threatened species. Section 56 of NEMBA provides for the listing of species that are threatened or in need of national protection: both the White and Black Rhino are listed. Activities involving these listed species are either restricted or in some cases prohibited. Restricted activities carried out within the national parks, or by officials of South African National Parks (SANParks), are also subject to the provisions of NEMBA and the ToPS Regulations.

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<sup>3</sup> Government Gazette No 33002- Notice No 173 of March 5 2010. – Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES Regulations.



Any restricted activity involving a specimen of a listed species, requires a permit. Currently both South African rhino species are included in the list of threatened or protected species in national legislation<sup>4</sup>.

- Black Rhino (*Diceros bicornis*) – Endangered species: indigenous species facing a high risk of extinction in the wild in the near future, although it is not a critically endangered species; and
- White Rhino (*Ceratotherium simum*) – Protected species: indigenous species of high conservation value or national importance that requires national protection.

Currently the domestic trade in rhino horns and derivatives is prohibited in terms of a national moratorium which was published in Gazette No. 31899 (Government Notice 148).

## **LEGALISING TRADE IN RHINO HORN**

### **Requirements for legal international trade**

International trade in South African rhino horn is currently not sanctioned by CITES. In order to conduct legal international trade in rhino horn, South Africa will first have to submit a proposal to CITES and obtain a two thirds majority vote in favour of the proposal.

Based on the experience with the establishment of trade in other wildlife products, for instance elephant ivory, South Africa will have to attend to the following:

1. Trade may be limited to suitable trading partners pre-approved by CITES who have proven that their internal trade controls are sufficient to prevent laundering of illegal horn. No country has expressed an interest in legal horn import to-date. South Africa will therefore need to identify willing, compliant, regulated and established trading partners as approved by the CITES Secretariat.
2. Proposed structure and trading protocols to be used in both South Africa, as the source country, and the consuming country, for example Vietnam, will need to be addressed.
3. An improved central information system linked to the permitting system and to the DNA database RhoDIS™, (<http://www.rhodis.co.za>) is an important step toward trade controls to provide transparency around how horns have been obtained (traceability). This is critical to distinguish between legal and illegal horn.
4. South Africa will need to prove that internal effective trade controls have been implemented and are sufficient to prevent the laundering of illegally obtained rhino horn.
5. Adequate regulatory and other measures to ensure that South Africa complies with reporting and inventory obligations, which would include:
  - a. Encourage non-compliant private rhino owners to register their horn stockpiles by providing guidance and assistance with security, and by convincing them that their personal information will be stored securely. Issue DNA certificates with each possession permit for each rhino and each rhino horn.
  - b. Conduct regular audits of horn stockpiles to discourage illegal sales.
  - c. Only issue possession permits for rhino horns when sufficient proof of legal ownership or acquisition is provided.
  - d. Increase capacity at ports of entry/exit to detect illegal wildlife products.
6. Clarity on how the revenue from trade will be utilised.

<sup>4</sup> Government Notice No R 151 in Government Gazette No. 29657 of 23 February 2007



### **Key knowledge gaps**

Currently there are several critical uncertainties to be addressed before legalising the international legal trade in rhino horn should be considered as an option to address the rhino poaching crisis. These are:

1. Whether, from a market dynamics perspective, legalising international trade will reduce the incentive for poaching. The first uncertainty in this context concerns the notion that an increase in supply leads to price reductions, which has been questioned in some quarters. The second uncertainty concerns the effects of such price reductions should they actually take place.
2. Whether a supply of legal horn can satisfy the demand in Asian countries.
3. Whether South Africa is in a position to effectively regulate a system of legal international trade, nationally and internationally.
4. Whether South Africa's trading partners are able to implement a structured legal trade regime and adequately regulate against illegal trade.
5. Whether it will be possible to keep illegal horn out of the legal market.
6. Whether legalising the trade in rhino horn will have other negative impacts on the conservation and wellbeing of the species. For example the proliferation of rhino farming.
7. Whether legalising trade will legitimize and condone the use of rhino horn in Asian countries.

### **CONCLUSIONS**

1. Currently rhino populations are under threat due to poaching. The question of whether commercial trade in rhino horn should be legalised hinges on whether a scenario of legalised international trade would have a positive impact on addressing the rhino poaching crisis.

2. The EWT fully supports all efforts to improve in-country trade control, permit monitoring systems and increased regulatory and other measures, as described above. South Africa should be working towards having the measures required by CITES in place, irrespective of the potential legal trade in horn.

3. The EWT is cognisant of the urgency in addressing the rhino poaching crisis, but is also mindful of the dangers associated with implementing a plan of action as far-reaching as legalising the international trade in rhino horn, before understanding the critical uncertainties associated therewith.

4. CITES must first approve a proposal from South Africa before any system of legal trade in South African rhino horn can commence. As the next CoP meeting is only in 2016, a definitive decision on legalising trade is therefore not required at this stage and would be premature given the uncertainties over the possible impacts of this strategy. The EWT therefore promotes focussing our immediate efforts on filling the knowledge gaps and addressing the uncertainties listed above. Once we are in a position to demonstrate, with an acceptable level of certainty, that a system of sustainable, legalised trade in rhino horn will secure wild populations of rhino and not fuel markets or further obstruct the eradication of the black market, the EWT would then be open to considering this as a means to conserve the species.

**For more information please contact:**



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