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EMS FOUNDATION
SUBMISSION ON THE INTENTION TO SET AND ALLOCATE THE 2026 AND 2027
CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA
AND FLORA (CITES) EXPORT QUOTAS FOR
ELEPHANT, BLACK RHINOCEROS AND LEOPARD HUNTING TROPHIES
IN GN7106 IN GOVERNMENT GAZETTE NO. 54098 OF 6 FEBRUARY 2026



Picture Source: <https://www.africahunting.com/media/african-savannah-elephant-hunt.97124/>

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INTRODUCTION

1. The EMS Foundation (EMSF) is a registered trust, nonprofit organisation and public benefit organisation, established in 2014.
2. The EMSF's key purpose is to alleviate and end suffering, raise public awareness, empower, provide dignity and promote the interests of vulnerable groups, including wild animals. The EMSF also has a special interest in biodiversity. It supports the five interrelated principles of social justice, namely: equity, access, diversity, participation and rights. It is cognisant of the entanglements of oppression and is committed to the promotion of inclusive justice, showing compassion across species and working to build a better future for all through campaigns, research, analysis, advocacy and holding government to account.
3. This submission is made in response to the Notice published on 6 February 2026 by the Department of Forestry, Fisheries and the Environment (DFFE) inviting public comment on its intention to set export quotas for elephant (*Loxodonta africana*), black rhinoceros (*Diceros bicornis*) and leopard (*Panthera pardus*) hunting trophies ("the Quota Notice").
4. These comments are fully endorsed by the Wildlife Animal Protection Forum of South Africa (WAPFSA), a coalition of thirty diverse South African-based organisations united by shared values and objectives. WAPFSA collectively comprise a body of expertise across various disciplines, including scientific research, environmental protection, legal advocacy, animal welfare, human rights, social justice, climate action, indigenous knowledge, and public policy. Collectively, WAPFSA represents the interests of South Africa's wildlife and natural environment, working to engage government on issues such as biodiversity conservation, animal protection, ethical conservation practices, and the impacts of climate change.
5. The EMSF has the right both to have the environment protected in terms of section 24 of the Constitution and to just administrative action in terms of section 33 of the Constitution.
6. These comments are submitted in furtherance of EMSF's right to have the environment protected by reasonable legislative and other measures that promote conservation and animal well-being.
7. The global public takes a particular interest in the well-being of the three threatened species that the Minister is targeting with the publication of this Quota Notice. Moreover, the Quota Notice is of concern to civil society and the public, because of its insufficient scientific rigour, lack of transparency, legal compliance issues, ethical implications and negative conservation consequences.

8. A decision by the DFFE Minister to set quotas is administrative action. In terms of section 33 of the Constitution, EMSF has a right to administrative action that is lawful, reasonable and procedurally fair. This right is given further effect by the Promotion of Administrative Justice Act, 2000 (PAJA).
9. It is incumbent on the Minister to provide substantive and motivating reasons *to* permit the trophy hunting and export of these TOPS listed species. However, the Gazetted Notice contains no information on, among other things: (i) how the trophy hunting of the three species fulfils the duty to protect the environment in terms of Section 24 of the Constitution; (ii) the rationale for selecting these three species for trophy hunting; (iii) how the quota quantities are determined and (iv) the distribution across the provinces; (v) the economic benefits of trophy hunting in relation to the three species concerned, and precisely how the local communities will be benefitting; (vi) the welfare implications of the animal being hunted and the impact on family members and populations that are left behind.
10. The Quota Notice raises serious conservation and ethical concerns, including the lack of clear, transparent evidence proving these quotas will not harm wild populations. According to the IUCN Red List, black rhinos remain Critically Endangered, while African elephants are classified as Endangered and leopards as Vulnerable.
11. The Gazette represents not merely an administrative allocation of quotas, but a clear signal regarding the Minister's conservation philosophy: wildlife is treated as administrable surplus, reducible to numeric population metrics and suitable for lethal market allocation.
12. This submission demonstrates that:
 - 11.1 The ecological reasoning in the Notice is incomplete and selectively framed.
 - 11.2 The sustainability claims rely on population percentages while ignoring demographic structure, social dynamics, evolutionary effects and cumulative stressors.
 - 11.3 The precautionary principle has not been meaningfully applied.
 - 11.4 The constitutional requirement to consider animal well-being is absent.
 - 11.5 The evidentiary threshold required for international wildlife trade decisions has not been met.

13. The Quota Notice is at odds with the State's constitutional mandate to promote conservation and prevent ecological degradation,¹ and to be a trustee of biological diversity². There could hardly be a more important role given the catastrophic decline of ecosystem functioning and loss of biodiversity globally which must be reversed in order to maintain human wellbeing and rights, prevent pandemics, maintain food security and mitigate climate change. Yet the critical role of maintaining and enhancing the ecological systems that sustain life has been made subservient to short-term exploitation of the environment in a manner that undermines long-term sustainability.
14. In summary, we submit that the Department's proposal to set quotas is scientifically and procedurally flawed and has failed to take account of relevant legal considerations.
15. Failure to address the concerns raised in this comment document may therefore leave the decision to set final quotas vulnerable to judicial review in terms of PAJA.

LEGAL FRAMEWORK

16. We set out below a brief overview of the relevant laws pertaining to the setting of export quotas.

Convention on International Trade in Endangered Species (CITES)

17. CITES is an international agreement between governments that adhere voluntarily and which aims to regulate the global marketplace for wild animals and plants to ensure that trade does not jeopardize their survival in the wild.
18. CITES regulates trade in listed species to prevent exploitation and ensure the survival of endangered, threatened or vulnerable species. Critically, there is nothing in the language of CITES that requires member states to support or engage in trade.
19. Species covered under CITES are categorized into three Appendices, according to the degree of protection they require:

¹ Constitution, section 24.

² The National Environmental Management: Biodiversity Act (NEM:BA) requires the State, as the Trustee of biological resources, to manage, conserve and sustain South Africa's biodiversity and its components and to implement the Act to achieve the progressive realisation of the rights in section 24 of the Constitution (section 3). This is consistent with the national environmental management principle in section 2(4)(o) of the National Environmental Management Act, 1998 ("NEMA") which states that "is set out as follows: "The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage."

- 19.1. Appendix I: Species at risk of extinction; trade is allowed only under exceptional circumstances.
- 19.2. Appendix II: Species not necessarily threatened with extinction, but for which trade might affect their survival.
- 19.3. Appendix III: Species protected in at least one country, which has requested other CITES parties for help in controlling trade.
20. South African populations of elephant are listed on Appendix II for the purposes of trade in hunting trophies for non-commercial purposes.³ All black rhinoceros specimens and trophies are listed on Appendix I, as are leopard.
21. CITES Resolution Conf. 14.7 (Rev CoP15): Management of nationally established export quotas (“the CITES guideline”), sets out guidelines for national quotas. It is recommended, not binding, on parties but represents best practice in the establishment of national export quotas. In terms of the guidelines, a quota should be set for one calendar year.⁴ Further, the CITES guidelines provides that where quotas are established “they should be set as a result of a non-detriment finding by a Scientific Authority. Export quotas for wild-taken specimens should be set at a level that takes account of the number or quantity of specimens that are taken from the wild legally or illegally. A non-detriment finding should be made whenever an export quota is established for the first time or revised, and reviewed annually.”⁵

Constitution of the Republic of South Africa, 1996

22. Section 24 of the Constitution provides that “everyone has the right... to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that...promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.”
23. In respect of the proper interpretation of section 24, the Constitutional Court has stated that:
 - 23.1. animal welfare is connected with the constitutional right to have the environment protected;

³ Annotation A10 to the CITES Appendices.

⁴ Paragraph 9.

⁵ Paragraph 10.

- 23.2. animal welfare and animal conservation are intertwined values;
- 23.3. animals are worthy of protection because they are sentient beings capable of suffering and experiencing pain; and
- 23.4. the rationale for this is that protecting animal welfare places an intrinsic value on animals as individuals.⁶

National Environmental Management Act, 1998 (NEMA)

- 24. A decision by the Scientific Authority to set a quota for trophy hunting is a decision by an organ of state that may significantly affect the environment for the purposes of section 2 of the National Environmental Management Act, 1998 and to which the principles in section 2 apply. Section 2(3) requires that development must be socially, environmentally and economically sustainable.
- 25. In terms of section 2(4)(a), sustainable development “requires the consideration of all relevant factors” including:
 - 25.1. that the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied (s2(4)(a)(i));
 - 25.2. 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 (s2(4)(a)(vi)); and
 - 25.3. that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions”(s2(4)(a)(vii)).
 - 25.4. When faced with risk and uncertainty, decision-making must err on the side of caution, and prioritise actions that enhance the likelihood of a positive outcome for the species, ensuring their best interests are upheld. In instances where evidence is limited or of low quality, adopting a more precautionary approach may be necessary until informational gaps are addressed, particularly in scenarios assessed as higher risk. In the case of setting quotas, this means that where the evidence about a particular trade in listed species is limited or of low quality, a quota should not be set.

⁶ See *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another*; 2017 (1) SACR 284 (CC).

National Environmental Management: Biodiversity Act (NEM:BA)

26. NEM:BA serves as South Africa's domestic legal framework for implementing its international obligations under CITES. NEM:BA establishes the necessary legal mechanisms and processes to give effect to these commitments within the country.
27. Section 2(a)(iiA) of NEM:BA provides that one of the objectives of NEM:BA is “the consideration of the well-being of animals in the management, conservation and sustainable use thereof.”
28. Section 9A empowers the DFFE Minister to “prohibit any activity that may negatively impact on the well-being of an animal.”
29. Section 62 provides that the Minister must publish non-detriment findings (NDFs) by notice in the *Government Gazette*, and invite members of the public to submit to the Scientific Authority, within 30 days of publication in the Gazette, written scientific information relating to the NDFs before those NDFs are made final. According to the South African National Biodiversity Institute’s (“SANBI”) website:

“The Scientific Authority monitors the international trade in specimens of all South Africa’s CITES-listed species, as reported in the CITES Trade database, and makes complex (comprehensive/detailed) NDFs for species that meet one of the following criteria: –

- 1. Threatened species (IUCN Red List status of Critically Endangered, Endangered or Vulnerable) with a small national population; exported from South Africa in quantities of more than 10 whole individuals over the preceding 10-year period.*
- 2. Threatened species (the national population not deemed to be small); exported from South Africa in quantities of more than 250 whole individuals over the preceding 10-year period.*
- 3. Near Threatened / Data Deficient / Rare / Declining species; exported from South Africa in quantities of more than 1000 whole individuals over the preceding 10-year period.*
- 4. Species with an IUCN Red List status of Least Concern; exported from South Africa in quantities of more than 10 000 individuals, or exports show a significant increasing trend, over the preceding 10-year period.*

All other species are deemed to be at low risk from international trade as legal exports are at levels that are not detrimental relative to the conservation status of the species.”

30. In terms of section 97(1)(b)(viii) of NEM:BA, the Minister may make regulations regarding the “ecologically sustainable utilization of biodiversity”, including
- 30.1. limiting the number of permits for a restricted activity;
 - 30.2. the qualifications or requirements necessary for the undertaking of a restricted activity; and
 - 30.3. criteria for the equitable allocation of permits for a restricted activity.

CITES Regulations, 2010 (Government Gazette No. 33002)

31. The CITES Regulations published under NEM:BA aim to further regulate the international trade of CITES-listed species to ensure that such trade does not threaten their survival.
32. “Quota” is defined in the regulations to mean “the prescribed number or quantity of specimens that can be harvested, exported or otherwise used over a specific period of time and is a total national quota.”⁷
33. The DFFE Minister is the Management Authority for CITES in South Africa. Regulation 3(2)(f) of the CITES Regulations provides that the duties of the Management Authority includes consulting with the Scientific Authority “on the issuance and acceptance of CITES documents, the nature and level of trade in CITES-listed species, the setting and management of quotas, the registration of traders and production operations, the establishment of Rescue Centres and the preparation of proposals to amend the CITES Appendices. In terms of regulation 3(3)(k) its duties also include coordinating requirements and allocating annual quotas to provinces.

OBJECTIONS TO THE QUOTA NOTICE

Consultation process not meaningful due to lack of sufficient information

34. The Quota Notice was issued in terms of section 97(1) of NEM:BA. In terms of section 97(2), before publishing any regulations in terms of subsection (1), the Minister must follow a consultative process that complies with sections 99 and 100 of NEM:BA.

⁷ Regulation 1.

35. Section 100(2)(b) requires that notice of a proposed exercise of power in terms of section 97 of NEM:BA “must ... contain sufficient information to enable members of the public to submit meaningful representations or objections.”(our emphasis).
36. EMSF’s view is that the Quota Notice provides no scientific rationale for the setting of the trophy quotas for each species in the Notice, especially bearing in mind that two of the species concerned are listed on Appendix I of CITES and all of the species have been listed as Threatened or Protected Species (TOPS) in terms of the TOPS Regulations, 2007 which remain in force. Leopard are classed as “vulnerable” on the IUCN Red List, black rhino are “critically endangered” and elephant are regarded as “endangered”.
37. Two short paragraphs contain the DFFE’s reasons for proposing that 300 elephants may be hunted for trophies. Essentially, the Notice describes the population of elephants as effectively doubling every 13 years and that South Africa is attempting to reduce its population. No scientific studies are cited to support the view that the population of elephants is too large, or that trophy hunting 300 elephants will alleviate any particular overpopulation rate or indeed what the effects of very selective trophy hunting of specimens (reference is made to ensuring large trophies) will be on specific elephant populations.
38. With respect to Black Rhinoceros, the fact that CITES has established an export quota for black rhinoceros does not mean that South Africa is obliged to fulfil that quota. Article XIV of CITES clearly states that:

*“The provisions of the present Convention shall in no way affect the right of Parties to adopt:
(a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or
(b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.”*
39. The only reasons provided for setting a quota for the export of rhino trophies are firstly to expand the species range through incentivising the keeping and protection of viable populations and secondly, “increase/maintain productive population growth through the offtake of surplus males.” No source is cited for Table 1, being allegedly the current population size in years, or for the proposition that there are “surplus males” or for the propositions that their removal will increase or maintain productive population growth.
40. With regard to leopard, the Quota Notice does not provide any information on how the figure of 11 leopard per year has been arrived at, nor is the SANBI/Panthera Report for 2024 provided for stakeholders.

41. While it may not be unlawful for two years' worth of quotas to be set in a single notice, the same quotas are set for both the 2026 and 2027 years giving rise to the inference that the figures for the 2027 year have not been independently considered and are therefore arbitrary. This also contravenes the CITES guideline and is not compliant with international trade obligations.
42. The limited time allowed for responses, coupled with the lack of access to the evidence on which the quotas have been determined, raises serious questions about the legitimacy of the public consultation process in relation to the proposed quotas. Genuine stakeholder engagement requires transparency, sufficient time and access to all supporting data. Moreover, for proper consideration and review the public requires full access to all underlying scientific assessments and non-detriment findings associated with the proposed quotas.

Public Trust and Transparency Deficits

43. The administration of lethal quotas for export trophies cannot be treated as routine. Wildlife is held as a public trust. Any quota decisions must respect the Constitution of South Africa, reflect intergenerational equity, show ecological integrity, demonstrate ethical evolution in governance and ensure risk avoidance under uncertainty. The Quota Notice has failed in its public trust dimension.
44. Meaningful public participation requires access to the evidence underpinning decisions. The Notice invites comment but does not provide underlying datasets, model assumptions, confidence intervals, independent peer review status or enforcement audit records. The Quota Notice has not provided the public with independent, peer-reviewed analyses or the all the underlying scientific data and modelling. Instead, it reflects a wholly utilitarian wildlife management paradigm in which wild animals are merely counted, allocated and exported as surplus units. It relies heavily on population percentages while neglecting social structure; selective offtake effects; genetic consequences; demographic variability; cumulative stressors; enforcement risk and well-being obligations. A species can be numerically stable and ecologically degraded. In a biodiversity and climate emergency, conservation governance must move beyond administrative quota-setting toward precaution, transparency and ethical integration.

Non-Detriment Findings (NDFs) have not been finalised for all three species

45. International standards require that hunting of and trade in specimens from threatened species should be backed by comprehensive population data, demographic modelling,

and clear evidence that the proposed offtakes will not harm long-term population stability or viability. The quota process has not fulfilled these requirements in sufficient detail to enable meaningful evaluation.

46. The proposed Quota Notice does not provide published, independently verifiable scientific evidence demonstrating that the proposed quotas will be non-detrimental to the populations in which the trophy hunted animals will be targeted, as required under the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES) for the species in question.⁸.
47. Without a publicly available, scientifically robust, population-level non-detriment finding for each of the species in question, which should include peer-reviewed demographic models, age-structured population assessments, and up-to-date monitoring data, the precautionary principle demands that export quotas should NOT be established.
48. A complex NDF was published in the Gazette for black rhino in October 2024 along with 40 other species. Our client submitted a detailed objection to the NDFs based on legal inadequacies in their development and implementation, methodological shortcomings in assessing the species, lack of a precautionary approach and the failure to consider species well-being, as required under South African law.
49. To the best of our knowledge a final NDF for black rhino has never been published.
50. Noting that the 2017 NDF for leopards recommended that a zero quota be established and that it is the latest NDF for leopards, a zero quota on leopard trophy exports still needs to remain in place.
51. NDFs in relation to these three species have not been properly published in a Government Gazette and the necessary consultation has not taken place. What has been published in a Government Gazette in 2024 were not the NDFs for these 3 species but merely an unclickable link (i.e. not a hyperlink) to a website that contains some NDFs. It is not good practice to include links in Gazette Notices since there is no record of what information was published on what dates and in fact our instructions are that the linked information has changed during the comment period, leading to confusion.
52. Our understanding in relation to the necessary public consultation requirements is that, when NDFs are gazetted, each and every detailed NDF must be appended to the gazette as a schedule. At the very least, to ensure complete transparency, and

⁸ <https://cites.org/eng/prog/ndf/index.php>

accountability these detailed NDFs should have been included in the gazette in accordance with NEM:BA section 62.

53. It is of material concern that hunting/export quotas for elephant, leopard and rhinos have been set in the absence of a current gazetted non-detriment finding and informed scientific data in relation to these species in the current or preceding calendar year.
54. Biodiversity Management Plans for Black Rhinos and Leopards have not yet been developed.
55. In summary, recent, scientifically-sound NDFs do not exist for the three species. There is therefore no evidence that a precautionary approach as required by section 2 of NEMA has been taken in setting the quotas since there is no good evidence that the implementing the quotas will not be detrimental to the conservation of the species. Accordingly, in taking the decision to set the quotas, a relevant consideration has not been taken into account. The Quota Notice does not comply with the CITES guideline in this respect.
56. The Quota Notice also does not explain the rationale for selecting these species for trophy hunting, any economic or socio-economic benefit for setting the quotas, whether and how local communities might benefit.
57. As a result, EMSF is not in a position to determine the implications for conservation of the species of the Quota Notice or the effect that hunting the specified number of individuals might have on the populations concerned, for example by disrupting social structures or altering genetic diversity.

Failure to consider alternatives to trophy hunting

58. EMSF is and remains opposed to trophy hunting in principle, on the grounds that killing sentient beings that are long-lived, deeply social (particularly so in the case of elephant) and intelligent for recreation is morally repugnant. EMSF's view is that each individual of a species has the right to exist and thrive in the ecosystem of which they are part and are therefore also worthy of protection. This is in line with the global movement towards recognising the right of every aspect of nature to exist at minimum, and to fulfil its unique role in ecological and evolutionary processes.

59. Importantly, modern conservation increasingly incorporates ethical considerations alongside ecological ones. Trophy hunting quotas do not support conservation⁹ The three targeted species have ethical and ecological significance beyond economic use. Importantly, South African jurisprudence recognises the “intrinsic value of animals as individuals” within environmental law. The three targeted species possess intrinsic value, play important ecological roles and have cognitive capacities independent of human utility, forming the need for an ethical foundation for biodiversity protection.
60. Trophy hunting is therefore associated with serious ethical concerns, for the three species listed in the Quota Notice. The successful conservation of their populations depends on recognising the critical roles individual animals play in maintaining genetic and social stability. Furthermore, the selective removal of individuals through trophy hunting has disproportionate impacts on population stability, and by extension impacts the health and functionality of the ecosystems of which they are a part and which in turn provide critical services on which people depend. In relation to the Quota Notice the Minister must consider Resolution 8-112 adopted at the IUCN World Conservation Congress in 2025 entitled *‘Strengthening planning for preserving biodiversity through the use of Longevity Conservation approaches to ensure naturally age-structured populations of species’*.¹⁰
61. For example, research increasingly demonstrates that older male elephants play critical roles in the social and behavioural regulation of elephant populations. Mature bulls often lead collective movements and act as repositories of ecological knowledge, guiding younger males through unfamiliar or risky environments. The removal of these individuals through trophy hunting or poaching may therefore have broader social consequences beyond simple population reduction. Studies have shown that when older males are absent, younger elephants exhibit increased aggression and destabilised social behaviour. Furthermore, selective killing of older elephants disrupts kin-based social networks and alters population structure. These findings challenge the long-standing assumption used to justify trophy hunting - that older males are reproductively redundant - and instead demonstrate their important ecological and social functions

⁹ Grijalva, R. M. (2016). “Missing the mark: African trophy hunting fails to show consistent conservation benefits.” Democratic Staff of the House Committee on Natural Resources. <https://naturalresources.house.gov/missing-the-mark>; Allendorf, F. W. and Hard, J. J. (2009). “Human-induced evolution caused by unnatural selection through harvest of wild animals.” Proceedings of the National Academy of Sciences 106: 9987-9994. <https://doi.org/10.1073/pnas.0901069106>; Coltman, D. W., O’Donoghue, P., Jorgenson, J. T., Hogg, J. T., Strobeck, C. and Festa-Bianchet, M. (2003). “Undesirable evolutionary consequences of trophy hunting.” Nature 426(6967): 655-658.

¹⁰ https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2025_RES_112_EN.pdf

within elephant societies.¹¹

62. The practice of trophy hunting is widely regarded as outdated and cruel and as such is harmful to the reputation of South Africa as an eco-tourist destination.
63. It is well-established that trophy hunting is difficult to regulate properly as it usually takes place in remote areas.
64. There is sound evidence to support the view that trophy hunting does not benefit local communities in any significant or sustained way. Empirical studies indicate that while hunting revenues may contribute to conservation financing at a national or sectoral scale, they frequently translate into minimal and irregular financial benefits at the household level, particularly once administrative costs and institutional leakage are accounted for.^{12 13 14} Collectively, the literature indicates that while trophy hunting may generate revenue at the sectoral level, the distributional dynamics, governance structures, and agrarian transformations associated with South Africa's wildlife economy limit its capacity to function as a meaningful community development mechanism. Rather than delivering sustained rural upliftment, the evidence points to highly uneven benefit flows, elite capture, and structural exclusion of adjacent communities.^{15 16 17} Evidence further demonstrates that communities often derive greater long-term value from non-consumptive wildlife economies, including photographic tourism and ecosystem stewardship, which generate broader employment opportunities and avoid the welfare harms associated with trophy hunting.

¹¹ Allen, C.R.B., Brent, L.J.N., Motsentwa, T. *et al.* Importance of old bulls: leaders and followers in collective movements of all-male groups in African savannah elephants (*Loxodonta africana*). *Sci Rep* 10, 13996 (2020); Lucy Bates, Victoria Louise Fishlock, Joshua Plotnik, Shermin de Silva, Graeme Shannon; Knowledge transmission, culture and the consequences of social disruption in wild elephants. *Philos Trans R Soc Lond B Biol Sci* 1 May 2025; 380 (1925): 20240132; Knell, R. J. and Martínez-Ruiz, C. (2017). "Selective harvest focused on sexual signal traits can lead to extinction under directional environmental change." *Proceedings of the Royal Society B: Biological Sciences* 284(1868): 20171788.

¹² Frost, P. G. H. & Bond, I. (2008). "The CAMPFIRE programme in Zimbabwe: Payments for wildlife services." *Ecological Economics*, 65(4): 776–787.

¹³ Gargallo, E. & Kalvelage, L. (2021). "Integrating social-ecological systems and global production networks: Local effects of trophy hunting in Namibian conservancies." *Development Southern Africa*, 38(1): 87–103.

¹⁴ Koot, S. (2019). "The Limits of Economic Benefits: Adding Social Affordances to the Analysis of Trophy Hunting of the Khwe and Ju/'hoansi in Namibian Community-Based Natural Resource Management." *Society & Natural Resources*, 32(4): 417–433.

¹⁵ Spierenburg, M. & Brooks, S. (2014). "Private game farming and its social consequences in post-apartheid South Africa: contestations over wildlife, property and agrarian futures." *Journal of Contemporary African Studies*, 32(2): 151–172.

¹⁶ Brandt, F. (2016). "Power battles on South African trophy-hunting farms: farm workers, resistance and mobility in the Karoo." *Journal of Contemporary African Studies*, 34(1): 165–181.

¹⁷ Sullivan, S. (2023). "'Hunting Africa': How international trophy hunting may constitute neocolonial green extractivism." *Journal of Political Ecology*, 30(1): 790–820.

Such non-lethal approaches are also supported by communities living alongside wildlife in South Africa.¹⁸

65. These findings challenge the frequently repeated claim that trophy hunting constitutes a reliable mechanism for rural development, indicating instead that community-level benefits are often marginal relative to the ecological and ethical costs associated with lethal wildlife utilisation.
66. The Minister has failed to consider the relevant alternative of setting zero quotas for the export of hunting trophies and/or prohibiting the practice of trophy hunting by means of a notice in terms of section 9A of NEM:BA. Trophy hunting has been completely banned in Kenya since 1977.

Failure to consider well-being as required under South African law

67. As set out above, section 2 of NEM:BA requires “the consideration of the well-being of animals in the management, conservation and sustainable use thereof.” “Well-being” in NEM:BA means “the holistic circumstances and conditions of an animal, which are conducive to its physical, physiological, and mental health and quality of life.”¹⁹
68. The amendments to NEM:BA are in line with the changing approach of the Courts to questions of animal welfare. In *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others* (“the second NSPCA case”),²⁰ the Gauteng High Court considered whether welfare considerations relating to lions in captivity were relevant in the determination of the annual export quotas for lion bone. In doing so, it approved of the stance taken by the Constitutional Court in *National Society for Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another*²¹ that conservation and welfare represent “two intertwined values”. It found that “These unambiguous and compelling sentiments require careful consideration in that not only do they provide guidance in terms of the legal conduct that is expected of us but rather that it also speaks to the kind of custodial care we are enjoined to show to the environment for the benefit of this and future generations.”²²

¹⁸ Moorhouse, T. P., Ntuli, H., Nketiah, P., Elwin, A., & D’Cruze, N. C. (2025). “Attitudes of local communities to wildlife conservation and non-consumptive, alternative income sources, near Kruger National Park, South Africa.” *Biological Conservation*, 309.

¹⁹ S1 of NEM:BA.

²⁰ 2020 (1) SA 249 (GP).

²¹ 2017 (4) BCLR 517 (CC).

²² Paragraph 65.

69. In the 2019 Pretoria High Court judgment of *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs, Director-General, Department of Environmental Affairs & South African Predators Association*,²³ the court observed that welfare issues have a direct bearing on the conservation status of species.²⁴ The Court held that: *“When one then has regard to the connection between welfare interests of animals and conservation as reflected in the judgments of both the Supreme Court of Appeal and the Constitutional Court in Lemthongthai and NSPCA respectively, then it is inconceivable that the State Respondents could have ignored welfare considerations of lions in captivity in setting the annual export quota. What in essence occurs is that the quota is a signalling to the world at large and the captive lion industry in particular that the state will allow exports in a determined quantity of lion bone. It cannot be correct to assert that such signalling can occur at the same time as indicating to the world at large and to the same industry that the manner in which lions in captivity are kept will remain an irrelevant consideration in how the quota is set. It is illogical, irrational and against the spirit of Section 24 and how our courts have included animal welfare concerns in the interpretation of Section 24. Simply put if as a country we have decided to engage in trade in lion bone, which appears to be the case for now, then at the very least our constitutional and legal obligations that arise from Section 24 and the Plan require the consideration of animal welfare issues.”*
70. In our view, the effect of this judgement is to make the consideration of animal well-being a relevant factor in any decision regarding the trade in or consumptive use of animals. This is further supported by the subsequent inclusion of section 2(a)(iiA) of NEM:BA which makes the consideration of well-being of animals “in the management, conservation and sustainable use thereof” a clear objective of NEM:BA.
71. The Quota Notice fails to include any analysis of how trophy hunting may impact the well-being of individual animals or populations. The absence of any kind of well-being assessment undermines the holistic approach required for effective conservation, which should integrate welfare and sustainability.

Leopards (*Panthera pardus*)

72. The proposed quota of 11 leopard hunting trophies does not meet the requirement for a CITES non-detriment and is highly irresponsible.
73. Specifying that only male leopards 7 years of age or older may be hunted ignores the difficulties of estimating the sex or age of individuals in field conditions. Evidence

²³ (86515/2017) 2020 (1) SA 249 (GP) (6 August 2019).

²⁴ Paragraphs 70-74.

demonstrates that trophy hunters are equally likely to encounter a male or female leopard, that hunters have difficulty determining the sex and age of individuals²⁵, and that most professional hunters surveyed indicated that they were willing to hunt an adult female leopard²⁶.

74. Evidence also highlights the disruption to subadult male leopard dispersal following adult male removal, with potential consequences for the future population viability.²⁷
75. The current quota regime for leopards has been described as failing to meet the general principles of precaution, sustainable use and adaptive management.²⁸
76. Population Uncertainty

National leopard population estimates range from approximately 2,185 to 23,400. Monitoring is limited to selected sites. Data is not nationally representative. Some regions show declines while others lack data altogether. Setting national export quotas for a species classified as “Vulnerable” under these conditions constitutes decision-making amid deep uncertainty.

77. Adaptive Management or Pre-Commitment?

The Gazette invokes adaptive management principles, however, true adaptive management requires: willingness to suspend activity under uncertainty, transparent data publication and clear thresholds for cessation. In practice, the framework appears designed to regulate scale rather than interrogate necessity. The question that remains unaddressed is: Why continue leopard trophy hunting at all in the absence of robust national baseline data?

78. Panthera Research and their Recommendations for COP20 (2025)

In 2024 **PANTHERA** was appointed by DFFE (DFFE-T021 (2023/2024) to assist the department with the development of The Leopard Conservation Strategy for the

²⁵ Balme, G., Hunter, L., Goodman, P., Ferguson, H., Craigie, J., & Slotow, R. (2010). An adaptive management approach to trophy hunting of leopards (*Panthera pardus*): a case study from Kwazulu-Natal, South Africa. In D. W. Macdonald & A. Loveridge (Eds.), *Biology and Conservation of Wild Felids* (1st ed., pp. 341–352). Oxford University Press.

²⁶ Brackowski, A. R., Balme, G. A., Dickman, A., Macdonald, D. W., Fattebert, J., Dickerson, T., Johnson, P., Hunter, L. (2015). Who Bites the Bullet First? The Susceptibility of Leopards *Panthera pardus* to Trophy Hunting. *PLOS ONE*, 10(4).

²⁷ Naude et al. 2020. Unsustainable anthropogenic mortality disrupts natal dispersal and promotes inbreeding in leopards. *Ecology and Evolution* 10:3605–3619.

²⁸ Trouwborst, A., Loveridge, A. J. and Macdonald, D. W. (2020). “Spotty data: managing international leopard (*Panthera pardus*) trophy hunting quotas amidst uncertainty.” *Journal of Environmental Law* 32(2): 253–278.

Management of Leopards in South Africa, conduct a situational analysis that will inform the development of a draft biodiversity management plan for leopards for a period of twenty-four (24) months and in the amount of R1 964 688.22 (VAT inclusive). See: <https://www.dffe.gov.za/index.php/node/3194>. How can their research less than 2 years later provide a basis for the trophy hunting of leopards as per the Quota Notice? This is particularly pertinent given that Panthera, in their submission to the USFWS on leopards and CITES COP20 (2025) highlighted that:

78.1 Quotas for leopard hunting trophies warrant review by the Conference of the Parties at COP20 and proposed that amendments are needed to ensure that exports and imports of specimens will not be detrimental to the survival of the species, as required under Resolution 9.21 (Rev. CoP18) regarding quotas for Appendix I species.

78.2 Habitat loss and fragmentation, reduced prey base, the illegal skin trade, and conflict with farmers have reduced leopard populations throughout most of their range.

78.3 Trophy hunting of leopards represents an additive source of mortality to populations already under pressure.

78.4 Robust estimates of population trends are still lacking.

78.5 Camera trap studies have shown lower densities of leopards than previously estimated. They remain concerned that there is currently no standardized, science-based approach to assessing hunting quotas for leopard.

78.6 There is a need for the CITES Animals Committee to review country NDF reports.

79. *The Quota Notice Ignores the Spike in Illegal Trade in Leopards*

The Quota Notice in relation to leopards has also ignored the spike in the illegal trade in Endangered Species, and in leopards in particular. Two recent Global Initiative against Transnational Organized Crime (GI-TOC) reports published in 2025²⁹ have highlighted that there has been a worrying spike in the illegal trade and demand for leopard body parts via *Facebook* business pages and *TikTok* are illegally exported to Asia, the US and the European Union.

²⁹ [Monitoring-illegal-wildlife-trade-Featuring-rhino-horn-pills-and-wildlife-substitutions-GI-TOC-November-2025.pdf](#) and [Mapping-organized-criminal-economies-in-East-and-Southern-Africa-GI-TOC-July-2025.pdf](#)

Elephants (*Loxodonta*)

80. The proposed quota of 300 tusks from 150 elephants is the same as was issued every year by South Africa from 2009-2022 inclusive, apparently without a credible non-detriment finding. Where is the science?

81. The Quota Notice proposes: “300 (three hundred) tusks, derived from no more than 150 (one hundred and fifty) individual elephants.” It justifies this by asserting: a national population estimate of approximately 43,681 elephants; an annual growth rate of approximately 5.5%; that offtakes between 0.35% and 0.7% are sustainable; and that there are “no concerns” regarding elephant hunting at present. This reasoning is materially incomplete. Population size is not a sufficient sustainability metric. The central flaw in the Quota Notice is its reduction of sustainability to a percentage-of-population calculation. The Quota Notice ignores four critical dimensions:

81.1. Selective Offtake and Artificial Selection

81.1.1. Trophy hunting is not random mortality. It is highly selective and targets: older bulls, large-tusked individuals and animals with particular phenotypic traits.

81.1.2. The Quota Notice links offtake levels to ensuring “large trophies”. Scientific literature demonstrates that selective removal of tusked individuals can drive measurable evolutionary responses, including shifts in tusk expression and trait frequencies over time.³⁰ Elephants exposed to sustained tusk-targeted harvesting show altered phenotypic patterns consistent with human-driven selection pressure.

81.1.3. A population can remain numerically stable while experiencing: Reduced average tusk size; Altered age structure; Genetic erosion

81.2. Social Structure and Behavioural Stability

81.2.1. Elephants are socially complex, long-lived mammals with matriarchal knowledge systems and hierarchical male structures

81.2.2. Older bulls regulate younger male aggression, stabilise reproductive competition, influence ranging behaviour and moderate human-elephant conflict dynamics.

³⁰ Campbell-Staton, S. C., Arnold, B. J., Gonçalves, D., et al. (2021).

Ivory poaching and the rapid evolution of tusklessness in African elephants. *Science*, 374(6566), 483–487.

<https://doi.org/10.1126/science.abe7389>

81.2.3. Peer-reviewed research links reduced older-male presence to increased aggression and destabilised behaviour among younger males.^{31 32}

81.2.4. The selective removal of precisely these individuals (those carrying desirable trophy tusks) cannot be treated as ecologically neutral.

81.2.5. The Quota Notice makes no reference to: age structure analysis, social network impacts or behavioural consequences of male removal

81.3. Subpopulation Variability and Spatial Confinement

The Notice relies on national aggregate numbers. However: many elephant populations in South Africa are fenced or spatially restricted, density-dependent pressures vary across reserves and genetic exchange between subpopulations is limited. A national growth rate does not ensure that each subpopulation can absorb selective removal without long-term destabilisation. No subpopulation-level demographic modelling is provided.

81.4. Cumulative Stressors

Sustainability must account for cumulative impacts, not isolated quota percentages. The sustainability claim ignores compounding pressures, including: habitat fragmentation, climate-driven drought stress, human-elephant conflict, infrastructure barriers, poaching, translocations and artificial population management.

82. Ecological Nuances are Ignored. The “doubling every 13 years” assertion is flawed. It is a theoretical extrapolation based on growth rates and does not account for: habitat degradation, climate variability, density stress, disease or conflict-related mortality. Presenting exponential growth as a justification for trophy exports reflects managerial convenience rather than ecological nuance.

83. Failure to apply the precautionary principle. Under section 2 of NEMA, environmental management must: apply a risk-averse and cautious approach, consider cumulative impact and avoid irreversible harm. The Quota Notice provides no publicly accessible population viability analysis, no genetic modelling, no demographic breakdown and no independent peer-reviewed justification. In the absence of such analysis, a precautionary approach would favour restraint.

³¹ Slotow, R., van Dyk, G., Poole, J., Page, B., & Klocke, A. (2000). Older bull elephants control young males. *Nature*, 408, 425–426. <https://doi.org/10.1038/35044191>

³² Bradshaw, G. A., Schore, A. N., Brown, J. L., Poole, J. H., & Moss, C. J. (2005). Elephant breakdown. *Nature*, 433(7028), 807. <https://doi.org/10.1038/433807a>

84. Trophy hunting within the Kruger National Park is not permitted. It is therefore of great concern that many of the elephants killed by trophy hunters are targeted in the Associated Private Nature Reserves which share unfenced borders with Kruger National Park. These elephants are part of the national estate and therefore belong to all South Africans.

Black Rhinoceroses (*Diceros bicornis*)

85. The Quota Notice relies on CITES Resolution Conf. 13.5 (Rev. CoP18) and a 0.5% framework for adult males. However, a percentage cap is an administrative ceiling - not evidence of ecological safety. Black rhinoceroses: are slow breeders, have long inter-calving intervals, occupy fragmented landscapes and experience intense poaching pressure. Removing breeding-capable adult males in small or fragmented populations can: disrupt dominance hierarchies, delay breeding, increase conflict and reduce reproductive success. These effects are documented in rhino ecology.^{33 34}
86. The Gazette implicitly relies on the market logic that trophy hunting revenue incentivises conservation and that removing “surplus males” enhances growth. This claim remains empirically contested. For species under high criminal poaching pressure, introducing or expanding legal trade streams increase laundering risks, complicate enforcement and create perverse incentives. The Quota Notice does not address enforcement integrity risks.
87. International wildlife trade requires credible non-detriment justification. The Notice does not provide the demographic modelling underpinning the quota, independent verification mechanisms or risk assessments of laundering or compliance failures. Without this transparency, the quota cannot be considered evidence-led.
88. Black rhinos remain critically endangered globally, and their populations are largely depleted.³⁵ While the moderate recent increase in global numbers reported to the 20th Conference of the Parties to CITES in November 2025³⁶ is encouraging, any lethal take for trophies requires the highest level of scientific scrutiny and ethical consideration. All other threats to populations, particularly poaching and habitat loss, must be considered. The precautionary principle dictates that quotas should be zero

³³ Shrader, A. M., Ferreira, S. M., McElveen, M. E., Lee, P. C., Moss, C. J., & van Aarde, R. J. (2006). Growth and age determination of black rhinoceros. *Journal of Zoology*, 269(4), 409–416.

<https://doi.org/10.1111/j.1469-7998.2006.00082.x>

³⁴ Emslie, R. H. (2020). *Diceros bicornis*. *The IUCN Red List of Threatened Species*.

³⁵ <https://www.iucnredlist.org/species/6557/152728945>

³⁶ https://cites.org/sites/default/files/documents/E-CoP20-084-A3_0.pdf

unless unequivocal independent and up-to-date data demonstrate long-term population-level recovery and non-detriment.

89. The proposed quota of 12 hunting trophies represents 0.52% of South Africa's estimated black rhino population of 2,307 individuals (according to the population figures in CITES CoP20 Doc 84 Annex 3). This exceeds the 0.5% maximum quota agreed by Parties to CITES at CoP18 in 2019, as articulated in CITES Res. Conf. 13.5 (Rev. CoP18)³⁷, and does not represent a precautionary approach to the protection of a critically endangered species.

CONCLUSION

90. We hope that our comments will be constructively considered when making a decision on whether and/or how to proceed with the trophy hunting quotas. We request that once the Department has reviewed all comments, that a comments and responses table be made publicly available, evidencing the manner in which all Stakeholders' comments were evaluated and analysed by the Department.
91. For the reasons outlined, **the Quota Notice must be withdrawn** because it:
- 91.1. is irrational, fails to consider relevant factors, is procedurally unfair, provides inadequate reasons, lacks scientific justification, fails to apply precaution and is reviewable in terms of PAJA;
 - 91.2. does not contain sufficient information to allow our client to participate meaningfully;
 - 91.3. is inconsistent with the CITES guideline on national quotas;
 - 91.4. is inconsistent with South Africa's domestic environmental principles including that the loss of biodiversity must be avoided where possible and that a precautionary approach must be taken where information is incomplete;
 - 91.5. has failed to take account of a relevant consideration which is that South African law requires that the well-being of animals must be considered in their management, conservation and ecologically sustainable use;

³⁷ <https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-13-05-R18.pdf>

- 91.6. has failed to consider that in the light of deficiencies in information and the fact that all three species are in general deemed to be of concern, a zero quota is appropriate; and
- 91.7. has failed to consider a prohibition on trophy hunting of the three species in terms of section 9A of NEM:BA.
92. In particular, we submit that in order to make the consultation process meet the legal standard for meaningful public participation, the Department should withdraw the Notice, alternatively issue a Notice providing for a zero quota for exports of the three species. Failure to do so may render the decision vulnerable to a legal challenge in terms of PAJA.