



## Species Survival Network

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14 March 2005

Dr. Pieter Botha  
Director, Biodiversity and Heritage  
Department of Environmental Affairs and Tourism  
Private Bag X447  
PRETORIA 0001  
Republic of South Africa

Dear Dr. Botha,

We are writing on behalf of the Trophy Hunting Working Group of the Species Survival Network, an international coalition of 76 organizations committed to the promotion, enhancement and strict enforcement of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). As an affected and interested party, SSN respectfully submits the following comments regarding the Draft National Norms and Standards for the Sustainable Use of Large Predators Issued in Terms of Section 9(1) of the National Environmental Management: Biodiversity Act (2004) (hereinafter "Draft Norms"), and the Draft Regulations Relating to the Keeping and Hunting of *Acinonyx jubatus*, *Hyaena brunnea*, *Crocuta crocuta*, *Lycaon pictus*, *Panthera leo*, and *Panthera pardus*, in Terms of Section 97(1) of the National Environmental Management: Biodiversity Act (2004) (hereinafter "Draft Regulations"). The SSN has an interest in this issue because half of the species concerned are protected by CITES and many of the activities addressed in the draft ultimately concern or affect international trade in these species.

In general, we believe that the hunting industry is incompatible with the ecotourism industry. Tourists wanting to travel to South Africa to photograph her diverse wildlife are dismayed and often put off when they learn of South Africa's growing hunting industry. An animal removed permanently from the ecosystem cannot provide the long-term revenue to the government and local communities that is generated by an animal that is photographed repeatedly by tourists willing to pay large sums of money for the privilege.

We do not expect the Government of South Africa to share this view. However, we hope that you will agree that South Africa can only benefit from measures that clearly and precisely ban unethical and unsustainable hunting practices. It is our concern that the proposed Draft Norms and Draft Regulations are neither

clear nor precise, and leave ample room for such practices to continue, that has led to our submission of the following comments.

### General comments

Our organizations have serious concerns about these proposed regulations from both policy and conservation perspectives.

Our organizations are deeply concerned that the Draft Norms and Draft Regulations contain numerous terms that are not fully defined and are open to broad interpretation. We are also concerned that, although public officials have claimed that the drafts, if adopted, would outlaw “canned hunting”, undefined terms and contradictory text indicate that the drafts would, in fact, sanction canned hunting under certain circumstances. We believe that the drafts allow the commercial breeding of large predators; the hunting of rehabilitated and released formerly captive animals; and exceptions to the national rules regarding the methods used to hunt leopard.

The stated aims of the draft norms are, among others, "to provide a national approach and minimum standards to all aspects relating to the management of large predators", "to regulate the hunting of large predators", and "to ensure sustainable use of large predators", however, there is nothing in the Draft Norms about monitoring populations to ensure that killing the animals for any purpose, including hunting, is biologically sustainable. There is also nothing in the Draft Norms about setting hunting and export quotas or ensuring that these are scientifically-based.

One specific aim of the Draft Norms is to "promote the ethical hunting of large predators". Yet, the Draft Norms promote unethical hunting in several ways: promoting hunting of captive-bred and former captive and rehabilitated animals; hunting of animals who are fenced in; no national standards on control of leopard hunting methods which often include spotlighting at night and hunting over bait; and hunting from vehicles.

Several hunting organizations have issued guidelines against such activities. For example, the Boone and Crockett Club, in its “Fair Chase Statement”, advises its members that when they are engaged in the “lawful pursuit and taking of any free-ranging wild” animal, they must do so “in a manner that does not give the hunter an improper advantage over such animals.”

Trophy hunting activities in South Africa operate in many instances outside the standards and accepted practices prescribed by the Professional Hunters Association of South Africa. Animals are often shot from vehicles, near fence lines, and are so habituated to humans that the animals are hardly difficult targets. Hunting outfitters in South Africa advertise guaranteed kills or a "100 percent success rate", indicating that there is little or no concept of fair chase involved in the hunt. Since the industry's own standards are being ignored, it is imperative that government mandated standards are effective.

The Minister of Environmental Affairs and Tourism, Marthinus van Schalkwyk, has stated, “[The] government has since 1997 continuously condemned the practice of canned hunting. The draft norms and standards and regulations [will] support the endeavours of government to stamp out this abysmal practice.” He has also said, “The publication of the draft norms and standards and regulations will provide the opportunity to the South African public to assist government to achieve an acceptable national position regarding the keeping and hunting of large predators.”

As currently formulated, the Draft Norms and Draft Regulations will not “stamp out” canned hunting in South Africa. Rather, they will institutionalize the activity by allowing large predators who have been in a vague definition of the wild for six months to be captured and killed in canned hunts. Breeding of lions, cheetahs, wild dogs, leopards, and hyaenas in captivity for consumptive use has no demonstrable conservation value for these species. The evident and exclusive goal of such operations is to provide targets for canned hunting operations.

The animals used in canned hunts have typically been bred in captivity and have depended on humans for their food. Their familiarity with people is indicative of the loss of their natural instincts. Six months in a quasi wild situation will not restore these instincts to a point where the hunting of them could constitute fair chase. We believe sanctioning this practice by codifying it in the Draft Norms and Draft Regulations would be deeply regrettable, and would reflect poorly on the commitment of the South African government to wildlife conservation and ethical hunting.

Our organizations urge the government of South Africa to uphold its commitment to shutting down canned hunting by supporting a complete and comprehensive ban on the practice of canned hunting in all of its forms.

Our comments on specific sections of each draft follow.

Comments on the Draft National Norms and Standards for the Sustainable Use of Large Predators Issued in Terms of Section 9(1) of the National Environmental Management: Biodiversity Act (Act No 10 of 2004)

Section 1. Definitions

*Wild*: One of the criteria for meeting the definition of “wild” is that the animal be “free-ranging”. A definition of “free-ranging” is needed, particularly in light of the fact that Section 3 of the draft document (Hunting of Wild and Managed Wild Indigenous Large Predators) states that “the area in which the hunt will take place must be fenced ...” There is an evident conflict between the requirements that hunted animals be both “free-ranging” and “fenced” in. Yet, the draft clearly indicates that the government considers animals who are fenced in to be “free-ranging”. A reading of Sections 1 and 3 together means that the Drafts would

condone the hunting of animals who are fenced in, or, in other words, canned hunts.

*Managed wild populations:* As with “wild populations”, “managed wild populations” must be “free ranging”, yet may be subject to hunting in fenced enclosures. We reiterate our comment that allowing hunting of animals within fenced areas contravenes the Draft Regulations’ principle that canned hunting should be prohibited.

*Captive:* The proposed definition for this term, namely that a large predator is considered captive “if any of the criteria of the definitions for wild or managed wild populations are absent”, is inadequate and unclear given the aforementioned problems with the definitions of “wild” and “managed wild populations”. The Draft Norms and Draft Regulations clearly indicate that animals who are fenced in, whom we would consider to be “captive”, can also be considered “free-ranging”, “wild” and/or “managed wild populations”. The drafts blur the lines between captive and wild in a manner which undermines the putative ban on canned hunting.

We understand that fenced areas containing wildlife in South Africa may range from small private holdings to extensive portions of protected areas, and that in these circumstances it is probably unreasonable to equate fencing with captivity. However, where fencing occurs to restrict free movement of wild animals within their habitat (as opposed to preventing encroachment on their habitat or reducing human-animal conflicts), especially when these movements are restricted in order to make them easier to hunt, we would regard the animals in such enclosures to be captive. In any case, the existing definition must provide a clear and enforceable distinction between captive and wild situations if the Draft Norms and Regulations are to be applicable.

*Captive-bred:* The proposed definition is inadequate, vague and contains several undefined key terms that leave the definition open to interpretation. Considering that many, if not most, of the animals who are bred in captivity will enter international trade, we strongly urge the government of South Africa to incorporate the CITES definition of “bred in captivity”, which can be found in Resolution Conf. 10.16 (Rev). This Resolution Conf. also contains useful definitions such as “controlled environment” that we also urge the government to incorporate into these drafts.

*Canned hunting:* As we have noted above, ambiguities in the definitions of “wild”, “managed wild population”, and “captive” blur the lines between “captive” and “wild” animals. Therefore, when the definition of “canned hunting” includes any form of hunting where “captive large predators are hunted”, that definition is entirely unclear. The drafts should be revised to explicitly prohibit the hunting of animals confined within any enclosure.

## Section 2. Management of Wild Large Predators

*Viable group:* What is a “viable group” and over what period should the viability projection be made? The length of the assessment period will affect both the minimum population size and the quality and size of habitat required to ensure viability. Similarly, the standards by which habitat and prey base would be determined to be suitable and sufficient are not identified. For example, what are the impacts of landscape fragmentation and permeability on the determination of suitable habitat? What is the relationship between this criterion and the availability of healthy populations of prey throughout the year? How are seasonal changes in wildlife populations factored into the determination of habitat and prey sufficiency?

*Temporary release camps:* The time period during which large predators may be kept in a temporary release camp should be more clearly defined. In its present formulation, this provision does not provide an implementable standard.

*Properly rehabilitated:* It is unclear who would ascertain whether or not a predator was properly rehabilitated or what criteria would be used.

### Section 3. Hunting of Wild and Managed Wild Indigenous Large Predators

*Human imprinted:* It is not clear from the present language whether the prohibition on hunting imprinted animals would extend to all animals acclimated to human presence, or only to those who have been hand-reared and therefore imprinted in the ethological sense during infancy. The choice of definition will have a substantial impact on the implementation of the rules and the nature of the hunts conducted.

*Disabled hunters:* The term disabled needs to be more clearly defined and provisions included ensuring fair chase in the case of disabled hunters shooting from vehicles.

*Pride situation:* This phrase needs clarification. The number of animals considered to be a pride should be defined, as well as how close they need to be to one another in order to constitute a pride situation. There appear to be no provisions to prevent lone mothers with cubs from being hunted.

*Introduction:* The draft condones the hunting of animals who were introduced (presumably, to the wild, from a captive-breeding or rehabilitation project but this needs clarification) more than six months earlier. This seems to imply that these animals have returned to a wild state and are fair game for hunting. The time required for an animal to revert to a fully wild state, if indeed such reversion is possible at all, will depend on a wide array of factors, including the species involved, the length of time in captivity, and the nature of the captive conditions under which the animal was maintained. We do not believe the six-month presumption adequately reflects this complexity or approximates the actual amount of time required for most captive animals to revert to a fully wild state. We strongly encourage DEAT to revise this provision to better reflect the impact of captivity on the natural aversive behaviors of these species.

*Fenced:* The title of this section indicates that it is to be applied to the hunting of “wild” and “managed wild populations”. As we noted earlier, the definitions of these terms include that the animals are “free-ranging”. We do not consider animals who are fenced in to be “free-ranging”; we consider animals who are fenced in to be “captive”. As it stands, the drafts clearly condone the hunting of captive animals, or canned hunting. This requires clarification.

*Under the influence:* While the draft legislation states that no large predator under the influence of any tranquiliser or similar drug may be hunted, a clear definition of “under the influence” is required. Is there a limit above which point the predator would be considered under the influence? It is our opinion that the large predators should not be given any drug at any level, to ensure “fair chase”.

*Night:* Many predators are hunted at dawn and dusk, therefore the term “night” needs to clarify if dawn and dusk are included.

*Hunting of leopard:* Leopards often are hunted at night over bait and it would appear that while the draft would outlaw such techniques when used on other predators, it would allow the practice to continue at the discretion of the provincial conservation authorities when leopards are targeted. Since leopards are largely nocturnal animals, hunting during the day could involve shooting a sleeping animal. No explanation is given for allowing an exception to the national rules for leopard hunting methods. Indeed, the recent decision to suspend the CITES hunting quotas for leopards clearly demonstrates that hunting leopards cannot be “left to the discretion of the provincial conservation authority”.

*Legal hunting methods:* A clear reference point for these legal hunting methods should be included.

*The hunter must be in possession of all permits, etc:* It is unclear whether “the hunter” describes the client or hunting company.

*Inadequate law enforcement:* The National Environmental Management: Biodiversity Act (2004) provides the Minister of Environmental Affairs and Tourism with the power to issue regulations concerning law enforcement; however no such regulations have been issued. Given that enforcement of the regulations in these drafts will remain in the power of provincial conservation authorities with varied records of monitoring hunting activities, private game reserves, and game farms, our organizations are concerned that such a patchwork approach to enforcement will be quite problematic. We note that the Department of Environmental Affairs and Tourism requested reports from the provinces on the scale of the hunting industry, and, as of early February of this year, no responses were forthcoming.

*Inadequate management:* We are concerned that despite the stated aims of the Draft norms (“to provide a national approach and minimum standards to all

aspects relating to the management of large predators", "to regulate the hunting of large predators", and "to ensure sustainable use of large predators") there is nothing in the norms about monitoring populations to ensure that killing the animals for any purpose, including hunting, is biologically sustainable. There is also nothing in the norms about setting hunting and export quotas or ensuring that these are scientifically-based.

#### Section 4. Keeping and Breeding of Captive Large Predators

*Captive circumstances:* This section fails to provide a meaningful standard for limiting the keeping and breeding of large predators. Specifically, several critical terms of the definition are unclear, including "conservation, commercial, rehabilitation or education objective." This lack of definition is striking when compared to the final category of operations for which captive breeding is permitted, "*bona fide* research program[s] attached to a recognized institution of research or higher learning." In contrast to the latter, well-defined category, the other four categories could cover a host of activities conducted by actors with widely varying degrees of financial capacity, professional competence and conservation commitment. For example, both roadside zoos and canned hunting operations may have commercial objectives.

Our organizations believe clearer standards should be established to ensure that the keeping and breeding of large and potential dangerous predators is limited to those persons who have the expertise, financial wherewithal and professional ethics to maintain the animals safely, humanely, and in a manner that does not put the public at unnecessary risk. The recent death at a canned hunting operation in Limpopo highlights the critical importance of such standards.

The list of captive facilities should include sanctuaries where large predators who have been rescued are kept. In order to avoid encouraging further lion breeding centers, specific criteria could be laid down for such reputable sanctuaries, which do not breed the rescued animals.

*Commercial objectives:* We strongly oppose a provision that would allow keeping and breeding of large predators for purely commercial purposes such as supplying canned hunting operations or selling the animals for private use in South Africa or overseas.

*Pets:* We strongly support the provision that would outlaw the keeping of large predators as pets. However, we urge the government to define the term "pet". For example, would cubs removed from their mothers for hand-rearing and used in public handling and photographic opportunities be classified as pets?

*Approved by the provincial conservation authority:* An explanation of the criteria for approval is needed.

#### Section 5. Hunting of Captive Large Predators

We reiterate our strong concerns that provisions allowing the hunting in fenced areas of captive bred animals ostensibly rehabilitated to a “wild” state will be unfair and unethical in most, if not all circumstances. We encourage DEAT to establish clearer, more detailed criteria for determining that a formerly captive animal has been sufficiently rehabilitated to a wild state to permit truly fair chase. We do not believe the proposed six month rule is adequate to this purpose. Furthermore, we again note the contradiction between the purported ban on canned hunting and the allowance for hunting of large carnivores within fenced areas.

#### Section 6. Control of Damage Causing Large Predators:

*Damage:* This term must be defined. It can take the form of economic, aesthetic, or other kinds of damage, and even then the assessment of damage is largely subjective. What is the threshold of damage before a predator becomes a target? Will there be an opportunity for public comment and objections once a predator has been targeted? How will the predators causing damage be identified, and how will it be ensured that hunting companies target these animals specifically?

*Onus is on the landowner to use non-lethal preventative measures:* What proof will be needed to show that these non-lethal measures are being used?

#### Section 7. Import, Export and Transportation of Large Predators

*Invasive species:* Chapter 5, Part 1 (Alien species) of the National Environmental Management: Biodiversity Act provides that no person may carry out a restricted activity involving a specimen of an alien species without a permit, which may be issued only after an assessment of the risks and potential impacts on biodiversity is carried out. This provision reflects a growing awareness of the tremendous impacts of invasive species on the environment and economy of South Africa. We do not believe the import provisions regarding non-indigenous wild large predators adequately reflect this awareness, or the requirements of the Biodiversity Act.

*CITES permits and procedures:* International trade in three of the species concerned must be regulated in accordance with CITES. Therefore, this section should address CITES permits and procedures. *Acinonyx jubatus*, *Hyaena brunnea*, *Lycaon pictus* and *Panthera leo* are listed as endangered or vulnerable by the IUCN. Both *Acinonyx jubatus* and *Panthera pardus* are on CITES Appendix I, and *Panthera leo* is on CITES Appendix II. We are therefore surprised to see no mention of CITES regulations and permitting processes described in these documents, under “Control of Damage Causing Large Predators”, which prescribes regulations for carcass disposal, or under “Import , Export and Transportation of Large Predators” which mentions the certificates required, but ignores the very important impact the CITES treaty has on such



actions. As a party to CITES, South Africa is bound by the provisions of the Convention and should make good faith efforts to comply therewith.

*Import of non-indigenous wild large predators:* The import provisions require that applicants seeking to import non-indigenous wild large predators into the country “prove, by means of appropriate Deoxyribonucleic acid (DNA) testing, that the predators are genetically sufficiently dissimilar to local predators to the extent that it precludes the possibility of the hybridization of subspecies, species, or other taxa.” Given the relative ease with which genetically distinct species can hybridize, particularly under conditions of captivity, we are not convinced that DNA testing alone could serve as a reliable indicator of interspecific infertility. More fundamentally, however, we note that the import provision does not include any requirement that an applicant assess the potential impacts of a non-indigenous large predator on other elements of the ecosystem, for example, through competition or direct predation.

Draft Regulations Relating to the Keeping and Hunting of *Acinonyx Jubatus*, *Hyaena Brunnea*, *Crocuta Crocuta*, *Lycaon Pictus*, *Panthera Leo*, and *Panthera Pardus*, in Terms of Section 97(1) of the National Environmental Management: Biodiversity Act (2004)

The African wild dog (*Lycaon pictus*) is classified as globally endangered by the IUCN, with an estimated 3000-5500 free ranging individuals remaining in the wild, and fewer than 2500 free ranging adults. The species has been extirpated from 25 of 39 range states. Although the wild dog once ranged throughout South Africa, the species is now limited primarily to Kruger National Park, with remnant populations scattered in small, isolated patches. In all, it is estimated that only 400 wild dogs range freely in South Africa. The Kruger NP population, shared with three other range states, is one of the largest remaining wild dog populations in all of Africa and thus of particular conservation value. Humans are responsible for 47% of wild dog mortalities in the park. In light of these facts, we encourage DEAT to reconsider its decision to classify the wild dog as merely protected, under Article 56(1)(d) rather than endangered or vulnerable under Article 56(1) (b) or (c). We believe the higher classification is warranted for this species.

Many of our comments with respect to the Draft Regulations echo those with respect to the National Norms and Standards and therefore we will not repeat them here. For example, concerning the Conditions for Permits Relating to the Keeping of Large Predators, we believe the criteria for defining “sufficient suitable habitat”, “sufficient suitable prey” and “viable populations” must be elaborated in more detail. Similarly, with respect to the Conditions for Permits Relating to Hunting of Large Predators, additional clarification is needed for the terms “human-imprinted” and “pride situation,” and more detail is required regarding the definition of and standards applicable to “disabled hunters.”

As noted above, we are also concerned with the apparent inconsistency between the prohibition on canned hunting in subpara. (v) and the express

requirement in subpara. (iv) that hunting areas be fenced according to the requirements of the provincial conservation authority concerned. It is unclear how animals confined within a fenced enclosure can reasonably be considered free ranging wild animals within the scope of the rule.

Thank you for considering our comments on this important issue.

Sincerely,

A handwritten signature in cursive script that reads "Christine Wolf".

Christine Wolf  
Wildlife Protection Program Manager  
Humane Society International

On behalf of:

Born Free Foundation – UK  
Born Free Foundation – US  
Care for the Wild International  
Humane Society of Canada  
Humane Society of the United States  
Pro Wildlife – Germany  
Pro Wildlife – South Africa  
Society for the Conservation of Marine Mammals - Denmark

cc: Minister Marthinus van Schalkwyk