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TO: **The Minister for Date:** 15 April 2020
Agriculture, Land Reform
and Rural Development

The Honourable Ms Thoko
Didiza

ATTENTION: Ms Thandi Moyo

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Dear Minister

WILDLIFE TRADE AND CORONAVIRUS

Introduction

As you know, we act for the EMS Foundation.

We refer to our previous letter dated 20 November 2019, regarding amendments to the Animal Improvement Act (AIA), to which we have not had a response. A copy is attached for your ease of reference.

Expertise grounded in experience

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Our client is aware that amendments to the Meat Safety Act (MSA) have since been published for comment (GN201 in GG 43050 of 28 February 2020) and it will submit a comment in due course.

The effect of these changes to agricultural legislation is to facilitate and legitimise the development of an industry based on products derived from wild animals.

As you are aware, there is now ample evidence that the present COVID-19 pandemic was caused by the zoonotic coronavirus, the origin of which has been confirmed to be a wildlife market in Wuhan, China. There is consensus among infectious disease experts that increased contact between wild animals and humans has increased the risk of dangerous viruses spilling over from animals to human. According to the World Health Organization, almost three-quarters of all epidemics in recent decades have spilled over from animals.

In China, a temporary ban on wildlife markets has been imposed with indications that it may become permanent. It is also reported that Vietnam's prime minister has asked the country's agriculture ministry to draft a directive to stop illegal trading and consumption of wildlife over fears it spreads disease.

This letter therefore submits that proposals to develop an industry based on products deriving from wild animals in South Africa constitute a serious public health risk. The risk includes not only the danger to consumers of wildlife products in South Africa and globally but the danger to abattoir workers in South Africa who will come into close contact with wild animals alive and dead. For example, the legal trade in lion bones for consumption in Asian traditional medicines potentially exposes abattoir workers to the risk of contracting TB. While much is unknown about risk from lion bones, the current evidence is clear that the wildlife trade poses huge risks to public health. A precautionary approach requires that, instead of promoting this trade, South Africa must take urgent steps to restrict it at least temporarily, if not permanently.

Your department also has a mandate in terms of the Animals Protection Act (APA) to ensure protect the welfare of all animals. Our client and its associate organisations have amassed ample evidence that the captive breeding of wild animals can never be achieved humanely and that grossly cruel practices are common in the lion breeding industry in particular.

Accordingly, our client's view is that recent legislative steps taken by your Department aimed at facilitating the development of the trade in wildlife products, including the amendments to the AIA and the proposed amendments to the MSA should be reversed and urgent new steps should be taken to restrict trade in wildlife products. The legal basis for doing so is outlined in the next section.

Powers of Agriculture Minister to restrict trade in wildlife products

Powers under the Meat Safety Act

In terms of section 14(7) of the MSA -

"The national executive officer may prohibit the exportation of any meat if—

(a)the meat in question is on reasonable grounds suspected to be unsafe for human consumption;[or]

(b)the exportation thereof may be detrimental to animals in the country to which it is intended to be exported..."

In the light of the current pandemic, there are reasonable grounds for suspecting lion bones and other products originating from wild animals are unsafe for human consumption. This is the basis on which China has banned all farming and consumption of "terrestrial wildlife of important ecological, scientific and social value." It is also accepted that viruses also travel between animal species and even from humans to animals. Tigers in the US have been found to be infected with COVID-19. Therefore, the export of wild animal products may also be detrimental to the health of animals in the countries to which they are exported. Accordingly, the conditions exist for the national executive officer to exercise his or her powers in terms of both section 14(7)(a) and (b).

The national executive officer exercises his or her powers "subject to the control and directions of the Minister"(section 2(b)).

Accordingly, we request that you direct the national executive officer to prohibit the export of product deriving from a wild animal in South Africa and the consumption of wildlife products in South Africa.

Powers under the Animals Protection Act

Administration of this Act was assigned to you in terms of Proclamation No. R.45 of 8 August, 1997. Therefore, in terms of section 2(3) of APA you have the power to prohibit the killing of any animal with the intention of using the skin or meat or any other part of such animal for commercial purposes. The Act does not specify the jurisdictional facts that must be present before such a discretion is exercised. Having regard to the purpose of the APA ,which is consolidation of the laws relating to the prevention of cruelty to animals, we submit that the fact that keeping of wild animals in captivity and breeding them for commercial use is inherently cruel, provides a proper basis for banning the export of bones, meat or other products from wild animals for consumption.

Powers under the Animal Health Act

In terms of this Act, the national executive officer may in certain prescribed circumstances prohibit the exportation of a particular animal or thing, or a particular consignment of animals or things to any country.

The prescribed circumstances include the situation where the national executive officer is of the opinion that the export thereof would be detrimental to the animal health status of the country to which it is intended for export (Section 5(a) and (b)).

As set out above, wildlife products from South Africa have the potentially to infect animals in countries of export with viruses and to contaminate other animal products in markets.

Cooperative governance

Since a proper response to the public health risks of the wildlife trade requires a coordinated approach between officials responsible for wild animals, food safety and public health, cooperative governance on this issue is key. We understand that the Department has met or is planning to meet the Department of Environment, Forestry and Fisheries (DEFF) regarding aspects of the wildlife trade and in particular the amendments to the AIA and MSA mentioned above. We attach hereto letters to DEFF and to the Department of Health setting out actions which our clients believe they should be taking urgently to safeguard human health.

Since such a coordinated approach may involve the closing down of captive breeding operations, your Department may also have a role to play in ensuring the future welfare of animals originating from these operations. This is also likely because, as we have indicated DEFF, the collapse of tourism in South Africa due to coronavirus measures, may mean that many lion breeding operations are already unsustainable.

Conclusion

In light of serious health risk that the wildlife trade from South Africa poses to:

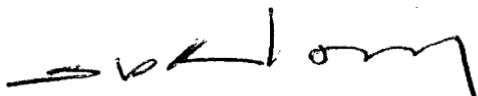
1. abattoir workers and other workers in the wildlife industry in South Africa;
2. consumers of wildlife products in South Africa and globally; and
3. animals in countries to which South Africa allows exports

and in order for your Department to fulfil its mandate in terms of ensuring the safety of animal products for consumption and protecting the welfare of wild animals, we believe that it must immediately investigate measures to restrict the trade in wildlife products from South Africa in terms of the legislation outlined above. Such measures should include at the very least a ban on the human consumption of wildlife products within South Africa and a ban on the export of products deriving from wild animals for human consumption.

It should also withdraw the Notice proposing amendments to the MSA and reverse the recent amendments to the AIA.

We look forward to hearing from you as soon as possible.

Yours sincerely



CULLINAN & ASSOCIATES INC.

per: SD KVALSVIG