

To the Chairperson of the Advisory Committee
Department of Environment, Forestry and Fisheries

14th June 2020

Dear Chairperson and Advisory Committee:

Ref: Response to Notices 221 and 227 in Government Gazette Nos 43173 and 43332 - Submission to the Advisory Committee appointed by the Minister to review the existing policies, legislation and practices related to the management, handling, breeding, hunting and trade of Elephant, Rhino, Lion and Leopard.

This submission responds to the call for submissions issued by the Minister's Advisory Committee in the Government *Gazette* as detailed above. It deals specifically with the trade in Rhino horn, although the points made apply equally to important aspects of the Elephant, Lion and Leopard categories.

Before addressing our points, however, we wish to highlight that the Notices (page 1) call for submissions "to review existing policies, legislation and practices relating to the management and breeding, handling, hunting and trade of Rhinoceros." However, the Terms of Reference for the Committee acting as the High Level Panel (HLP) stipulate (page 3) that it is tasked to:

"... make recommendations relating to....

- Develop the Lobby/Advocacy strategy for Rhino horn trade in different key areas including, but not limited to:
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 - Identification of new or additional interventions required to create an enabling environment to create an effective Rhino horn trade."

This clearly indicates that a policy on the trading of Rhino horn has already been decided and that this call for submissions is simply about developing a *lobbying and advocacy strategy* to facilitate its implementation.

We strongly object to the framing of the call for submissions in this way. No such policy on trade in Rhino horn has been agreed and it is largely illegal in terms of international legislation. The wording of the call clearly goes against the spirit of current legislation and begs serious questions as to its underlying purpose.

The remainder of our submission is directed at illuminating the extremely damaging consequences of any legalisation of the trade in Rhino horn - for South Africa's wild Rhino population, for South Africa's global tourism offering, and for the large number of poor households who live in the proximity of the country's Big Five wildlife reserves.

We organise our submission under the following points:

1. The important role of markets – and market failures – in determining conservation outcomes

- a. We want to state clearly that the authors of this submission are strong supporters of market-based solutions to conservation challenges. Through the price mechanism and in normal circumstances, free markets have an unrivalled power to incentivise

producers and consumers of goods and services to invest and act in ways that maximise positive social (including conservation) outcomes, in their pursuit of private profit. The thriving private lodge industry within and along the borders of our national and provincial parks, the large numbers of predominantly unskilled people it employs and the associated abundance of wildlife there bears ample testimony to this reality.

- b. However, 'market failures' can occur in any system. As a result of these, the alignment between private and social returns can break down in various ways. When this divergence happens the outcomes of market processes can be extremely damaging and long-lasting. We believe that, for reasons that this submission will outline, fundamental and enduring market distortions and failures underpin the global market for Rhino horn. As a result, any move to legalise this trade, however small and seemingly insignificant on the face of it, will have disastrous consequences for the survival of Rhinos in the wild – both in South Africa and globally.
- c. Although the market for elephant ivory, lion bone and leopard products differ in important respects from Rhino horn and from one-another, similar market failures apply in these areas too.

2. The demand and supply characteristics of the global market for Rhino horn and their consequences for conservation

- a. **Demand:** In the absence of a legal market for horn, it is impossible to accurately determine the extent or value of global demand. Estimates drawn from pan-African Rhino poaching statistics in the late 1970s suggest that the Asian demand for horn amounted to between 45 tons and as high as 70 tons per year¹. Since then China has banned the trade and consumption of Rhino horn for use in Traditional Chinese Medicine (TCM) which did dampen demand. But this has subsequently been at least matched by the growth in demand from neighbouring countries, in particular Laos, Vietnam (and now again in China) where the middle and upper class has expanded enormously over this period. The North Korean state has also clandestinely entered the market for Rhino horn via its Embassies, which uses horn to boost its scarce foreign exchange reserves. It is not unreasonable therefore to assume that global demand could rapidly expand back to the 45 to 70 tons range per year if trade was legalised and demand was re-stimulated.
- b. **Supply:** A study conducted by the then Department of Environmental Affairs (DEA) in 2014 confirmed that the amount of Rhino horn that South Africa could make available annually and sustainably from shavings of farmed Rhino, from existing stocks and future mortalities was then around 2 tons a year, climbing to a maximum

¹The total number of rhinos in Africa in 1978 was 65,000. The total rhino population in 1987 had plummeted to just 4,000. (Reference: John Hanks *Operation Lock* page 38 and many journals from that era). 61,000 rhinos were poached in just 9 years, equating to an average of 6,777 rhinos poached each year for each of those 9 years. Average horn set sizes in those days was around 7kgs per rhino which would equate to an average of 47 tons of rhino horn poached each year for 9 years. But towards the end of this period the rhino population was already below 6,777, meaning that a lot more rhinos had to have been poached in 1978 because they were more numerous. Statistically we can therefore calculate that around 70 tons of rhino horn were poached a year in that period around 1978.

of 5 tons a year based on intensive efforts to breed Rhinos². An estimated 16,000 Rhinos exist in SA today, of which maybe around 15% ($\pm 2,500$) are farmed and the rest are found in our national parks, provincial and private game reserves.

- c. **The Demand/Supply mis-match and its consequence:** Given the enormous gulf that exists between the global potential demand for Rhino horn and the actual maximum possible legal supply, any legalisation of its trade would immediately result in increased actual demand. Assuming intensive captive breeding succeeded in growing the overall supply of horn (i.e. both farmed and wild-deceased) by 10% per year (in itself a highly optimistic assumption), it would take at least *thirty five years* for the Rhino farming industry to meet the lower level (40 tons p.a.) of this potential annual demand range. The supply lag would take much longer to bridge if (as is highly likely) market demand increased from current levels following legalisation.

As a result, one can anticipate overwhelming demand pressure on any regulated horn supply channel for many years, with obvious inflationary consequences for prices across the board. This would inevitably lead to increased poaching levels of wild Rhinos to meet that demand and to capitalise on the high prices. Instead of helping to reduce poaching levels, legal supply of Rhino horn into the market, however small, would directly incentivise increased poaching of wild Rhinos. Beyond its impact on the species, this would put SA's tourism industry, its many related jobs in rural areas and its international reputation at enormous risk.

Some commentators view the spike in prices that would result from legalisation as an opportunity for the SA Government to realise a greater return from its stockpiled reserves, thereby easing its budgetary constraint and enabling enhanced investment in conservation. This is a fallacious and self-defeating argument which would be extremely short-sighted and reckless in light of its consequences for Rhinos in the wild.

- d. **Rhino horn price considerations and their consequences:** The peak prices that Rhino horn has sold for in the early 2000s have been around US\$60,000 per kilogram, at one point flirting with US\$100,000/kg in response to speculative activity. The black market price for Rhino horn has subsequently dropped to between US\$15,000 to US\$20,000/kg currently. When demand is re-stimulated as a result of South Africa legalising the sale of even a portion of its horn stockpile, the black-market price could well revert back to US\$60,000 as the market was reactivated.

South Africa's Private Rhino Owners' Association (PROA) has proposed a selling price for stockpiled horn in a range between US\$10,000 and US\$23,000 per kilogram³. This translates into a potential premium of the black-market price over regulated supplies of US\$ 3,000 to 5,000 (i.e. 15% - 50%) per kilogram. Regardless of the premium, formalising the market at these selling prices would signal the opportunity

²https://www.environment.gov.za/sites/default/files/docs/rhinohorntrade_southafrica_legalisingreport.pdf

³PROA submission to the Advisory Committee of the HLP, 27 May 2020.

for massive sustainable profits to be made through poaching which is associated with low costs relative to farming.

Given the growth in demand that will undoubtedly follow legalisation and the continuing constrained supply, the price differential between legal and illegal horn supplies will only increase – in both the short and long-term. The price elasticity of demand for Rhino horn (i.e. the extent to which price increases result in a reduction in demand) is demonstrably very low, implying an almost insatiable demand for horn at even the most constrained supply and high price scenarios. Similarly, the price elasticity of supply for horn (the extent to which supply is able to increase in response to higher prices) is low, given the low reproduction rates for farmed Rhino.

A context of high demand and constrained legalised supply is a sure-fire recipe for sustained upward pressure on the price of Rhino horn. This will further incentivise black market activity aimed at capitalising on rising prices, which will directly manifest in increased poaching. From this it is clear that the legalisation of trade will immediately trigger a spiral of black market activity and poaching, which will not stop for as long as demand exceeds supply – i.e. for many decades.

- e. **The wealth, power and global reach of the criminal syndicates that control the illegal horn trade:** The final characteristic of the global Rhino horn market is its control by extremely wealthy, pervasive and corrupt criminal enterprises. These effectively oversee every link in the supply chain, from the point of harvest to trans-shipment, processing and final sale. The illegal horn trade is in effect a globally integrated supply chain controlled by extremely rich, agile and powerful criminal syndicates which frequently run parallel enterprises in other wildlife products, narcotics, human trafficking and the like. Their leverage extends across the regulatory and criminal justice systems that the exposed governments will deploy to oversee any future legal trade.

In the face of these syndicates, the effectiveness of the statutory bodies charged with policing the trade now and in the future are likely to be poor. Under-resourced, weak and vulnerable to corruption at the best of times, these agencies will not be able to hold out against the inducements, intimidation and violence of the interests that control the black market once (if) the lucrative arbitrage opportunities emerge between the illegal and legal trade channels. History clearly shows (see discussion further below) that it is inconceivable for any regulated channel established to control the legalised trade in horn to retain its integrity and not be contaminated by supply from unregulated (illegal) sources given the latter's wealth and willingness to use it for persuasion.

- f. **The consequences of the legalisation of Rhino horn trade on Rhino poaching:** Given these supply, demand and price characteristics of the global Rhino horn market, the price disparity between legal and illegal supplies of horn will at the very least continue following the legalisation of any aspect of the trade. This in turn will lead directly and without delay to the following:

- i. An overwhelming incentive for the criminal syndicates that control illegal supplies of horn to increase their procurement through poaching and related illicit marketing activities, so as to arbitrage the price differential between legal and illegal channels on top of realising the standard large profits from exploiting the difference between the selling price of horn and the cost to poach that horn.
- ii. An overwhelming incentive on behalf of poachers at the bottom of the illegal supply chain, most of whom are poor and lack alternative livelihood opportunities, to engage in poaching so as to realise as much value from the neighbouring wildlife resource – regardless of its consequences.
- iii. A dramatic acceleration in the poaching of wild Rhinos globally, to the point where they will rapidly disappear outside of small, protected farms and zoos. Is that how tourists will want to view Rhinos when they visit South Africa?

This outcome will be inevitable and unavoidable if any aspect of the Rhino horn trade is legalised.

3. Taking account of the lessons from previous legalisation experience

Beyond what market forces dictate will happen, there is clear evidence to be drawn from past experience of what happens when trade in Rhino horn and elephant ivory is legalised, even partially.

- a. **The 1993 Rhino horn ban:** In a little more than a decade leading up to the Pelly Amendment that led to the full ban on Rhino horn trade in 1993, poaching of Rhinos had decimated the African population from 65,000 (1978) to around 4,000 (1987). Within one year of the full implementation of the worldwide trade ban, demand for Rhino horn plunged, resulting in the incidence of Rhino poaching plummeting to insignificant and manageable levels. The beneficial consequences of the trade ban resulted in over ten golden years for Rhinos – up until the mid-2000s. That was when loopholes in CITES hunting/shipment legislation were exploited by Vietnamese criminal syndicates aided by certain South African Rhino owners/ranchers, and a blind eye was turned by the relevant SA authorities. The resultant supply immediately re-catalysed demand and reactivated a broader supply chain. This led to the recent rapid and uncontrolled escalation in poaching at enormous cost to both public and private park authorities.
- b. **The 2008 partial lifting of the elephant ivory ban:** Following the precipitous decline in Africa's elephant population in the 1970s and 80s, a CITES ivory trade ban was implemented in 1990. Demand for ivory plummeted immediately, and from 1990 for the next two decades, poaching across Africa diminished to insignificant levels, allowing populations to recover. In 2008 CITES gave Southern African states permission to sell 108 tons of ivory to China and Japan. The supply of even small volumes (2 tons per year, in the case of China) into the legal domestic carving market that immediately provided the cover for the criminal syndicates to launder illegal, poached ivory into the legal market channel. At the point of sale, there is no means of distinguishing legal from illegal ivory, and very few market players have an interest in finding out. The upshot was that the Southern Africa ivory sale re-

catalysed the market and demand which in turn triggered a dramatic escalation in poaching, to the current point where between 20,000 and 30,000 elephants are being poached annually across Africa (of which growing numbers originate from the Kruger Park).

The lessons are clear: even a very proscribed legal trade in an extremely scarce commodity for which there is strong potential demand will dramatically activate that demand by both legitimising the use of that product and catalysing a market for its distribution. This immediately incentivises criminal syndicates to enter the supply chain to profit from laundering their cheaper, illegally procured product into the legal market.

Banning all legal trade universally, closing all legal loopholes and eliminating the mixed messages that accompany ongoing debates around legalisation, are thus the only means of effectively killing the demand for Rhino horn (and ivory etc). This in turn is the only effective means of reducing the threat imposed by poaching to the survival of the species in the wild.

4. The damaging consequences of legalisation for tourism

Pre-Covid, South African tourism had emerged as a key component of a strategy to realise inclusive economic growth. Given its broad base, low entry barriers and geographical dispersion across deep rural areas, tourism presents a unique opportunity for small business creation, low-skilled labour-intensive growth and enhanced foreign exchange earnings. Up to 80% of international tourists to SA are drawn by South Africa's wildlife offer in tandem with the Cape. Market research has shown that these tourists, comprising medium to high net worth individuals, are overwhelmingly opposed to trade in endangered species and products. The attractiveness of South Africa as a safari destination would be seriously compromised by any move to legalise the Rhino horn trade. Tourism would be gravely affected if we were to lose our Rhinos in the wild – i.e. if SA became a 'Big Four' safari destination.

The SA wildlife economy is overwhelmed by the costs associated with anti-poaching security. Any legalisation of the Rhino horn trade would immediately exacerbate these costs as the demand for illegal horn ramped up to meet the high value market-arbitrage and profit opportunities that would emerge.

The HLP should recognise that it is far more prudent and rewarding for the SA Government to invest in the protection and re-growth of the traditional tourism industry which at its pre-Covid peak was worth over R120billion annually and supported one in seven South Africans, than risk much of that to support an unproven, shady and extremely risky industry that is worth less than 1% of that.

Post-Covid, the tourist brand SA must cultivate to successfully capitalise on the re-emergence of the global travel market is that of an ethical wildlife destination, uncompromised by any associations with criminality and exploitation. These negative associations will unavoidably accompany any legalisation of the Rhino horn trade.

5. The alternatives to legalisation

There is only one alternative to the legalisation of any aspect of the Rhino horn trade, and *that is an absolute ban on the trade globally, in any and all of its manifestations.*

If the Government wanted to be really innovative and raise considerable amounts of money for SA's fiscus to fund the running costs of South Africa's National Parks and provincial game reserves, this ban should be accompanied by the destruction of existing publicly and privately held rhino horn stockpiles. This could be undertaken through a widely publicised, high profile Rhino horn 'burning event' in the Kruger National Park (possibly overseen by the Presidents of both South Africa and China). This could serve as a worldwide, celebrity endorsed rallying event to raise awareness and funding for conservation. It could also capitalise a fund needed to purchase the private horn stockpile to contribute to the Burn. This event would also create much needed positive worldwide publicity for South Africa that would enhance our ethical brand and entice many more tourists to visit the country.. Such an event would be an unequivocal win for all stakeholders - Rhino conservation, for SA's parks, for tourism to South Africa, for private Rhino owners and for SA's fiscus.

Importantly, the Burn in tandem with a significant worldwide demand reduction campaign would simultaneously send a powerful message to Rhino horn traders, processors, criminals and consumers alike that there is no prospect of ever sourcing horn supply on any meaningful scale, and that Rhino horn no longer had any value. While this would obviously not completely stop the illegal trade in and use of horn, it would

- i. eliminate once and for all the mixed messaging and the associated forward planning by the black market participants in the supply chain, in anticipation of some form of trade relaxation, and as a direct result
- ii. reduce poaching considerably to manageable levels well below the birth rates of Rhinos in the wild.

Together with more, and more effective, demand management initiatives in Asian markets – including the post-Covid attention and commitment that will undoubtedly be directed by governments and agencies at eliminating the trade and sale of wild animals - these actions offer the best prospects of permanently eliminating the market for horn. Only through these interventions and their market-collapsing outcomes will the future of Rhinos in the wild be secure.

6. The urgent need for clear and consistent communication by the SA Government

We cannot over-emphasise the extremely damaging consequences for Rhino conservation of the on-going debates - and the mixed messages that they feed across the value chain - around legalisation of the trade in horn. Just as any form of legal trade will stimulate demand by legitimising the use of the product, continued mixed messaging which references the scope for future trade (on whatever scale), keeps the supply chain and its participants alive: exploring loopholes, raising stockpiles, lobbying stakeholders, corrupting security personnel and paying poachers.

7. Dispelling some of the myths deployed by the lobby for legalisation

A number of enduring myths have been created and continue to be nurtured and perpetuated to sustain the pro-legalisation lobby. These are highlighted and answered briefly, in no particular order, below. We urge the Panel not to be persuaded by any of these unfounded arguments.

- a. *Ostrich's and crocodiles were saved from extinction through commercial farming- their success should be replicated and applied to Rhinos via the commercialisation of the horn trade and the promotion of Rhino farming.*

There are no parallels between the crocodile/ostrich value chains and Rhinos, and therefore no lessons to be drawn to support the legalisation of trade in horn. Female ostriches can produce upwards of 40 chicks per year and crocodiles around 60

hatchlings per year which compounded over five generations equates to over 100 million animals. A mature female Rhino will produce one calf every two and a half years and very few over her lifetime. Starting from the current stock of farmed animals, commercial Rhino farming will, on very optimistic assumptions, take at least 30 years to meet current levels of demand. Given the huge disparity between demand and supply for horn and its impact on prices, Africa's wild Rhinos will be extinct well before the point when stocks of farmed Rhino are remotely able to satisfy world demand. Moreover, Asian consumers prefer wild over farmed products when there is a medicinal use because of the belief that wild products have more potency. Commercial farming of Rhinos thus offers no solution to the poaching crisis.

- b. *Exclusive government to government selling channels can be established to regulate trade and neutralise the black market.*

The countries most likely to be involved in such arrangements have a very poor record with regard to enforcement. The integrity of these channels will never be maintained in the face of the sustained attack that will be directed at them from rich and generous criminal syndicates, many of which have infiltrated these organisations anyway. As has been illustrated, the establishment of legal trade channels does nothing to displace illegal channels. On the contrary, it incentivises their expansion. Illegal supply channels are difficult enough to police effectively. This task is made all the more difficult when they are given cover by parallel legal channels whose end-markets are indistinguishable.

- c. *Funds raised through commercial farming and trade can be used to finance conservation and community development*

Beyond the nominal growth in employment that will result from increased farming, there will be very little benefit for communities that live around wildlife reserves (or farms), for conservation programmes - or for the national treasury. One must ask whether sable, buffalo colour variant breeding, Rhino or other game farming has ever materially benefited communities or conservation around South Africa's national parks beyond minimal direct employment benefits. Moreover, as was revealed by the sale of ivory stocks in 2008, the proceeds of such sales do not get ring-fenced within treasury for ploughing back into conservation, security and 'community development' as is so often alleged. They are absorbed into the general appropriation account.

- d. *Banning Rhino horn trade is like banning cigarettes and alcohol – it will never be effective (as has been illustrated under Covid...)*

Banning any freely available, addictive commodity for which there is a strong demand is difficult and will never be totally effective. There are no parallels between Rhino horn bans and cigarettes or alcohol bans. The latter are widely consumed, involving habits which, within certain regulatory limits, are fully legal. Banning them will immediately give rise to widespread popular resistance and rampant black market transactions. Rhino horn trade and use is limited to specific market niches globally, beyond which they are widely shunned. While banning trade in and the use of Rhino horn will possibly result in black market activity, this will be on an

insignificant and diminishing scale the longer the ban and the attendant negative social messaging is maintained.

- e. *We should pursue a pilot project around legalisation. If it doesn't work the ban can be re-imposed.*

We already know from past experience that legalising trade, whether in horn or ivory, does not stop poaching; it accelerates it. If South Africa sold Rhino horn to the Asian market for a few years with a view to stopping if those sales did not stop poaching, the effects on our wild Rhino populations would be devastating. The few years of legal sales will serve merely to create the long-term cover under which the trade in poached Rhino horn will thrive. SA's once-off ivory sale to China in 2008 proved that once a legal market exists, the legally obtained tusks provided indefinite legal cover for poached ivory to be easily laundered into the market masquerading as the legal product. Fundamentally, as we know, there are not enough Rhinos in the wild to start recklessly testing unproven pro-trade economic models in complex, fast growing and corrupt Asian markets with rapidly increasing numbers of wealthy consumers. By the time the unintended (but entirely predictable) consequences of legalisation are recognised and steps taken to reverse them, there is every likelihood that the world will have lost its wild Rhino population. Forever.

8. Conclusion

We trust that this submission and the comparative global experience it draws on shows beyond any doubt that the legalisation, even partially or temporarily, of any aspect of the global Rhino horn trade will do immediate and lasting damage to the prospects for the survival of Rhinos in the wild.

Similarly, selling or auctioning off existing stockpiles of Rhino horn is not a viable option to solve our Rhino poaching scourge. If South Africa did trade its Rhino horn, a handful of players who control existing stockpiles and who control the global supply chain would become very wealthy. But this would be at the expense of SA's wild Rhino population whose demise would follow very quickly as the global market expanded and as the criminal syndicates who control it set about arbitraging the price differentials between any regulated market and the international black market.

In a nutshell, the specific demand, supply and criminal characteristics of this market mean that even a partial legalisation of trade in horn will create massive poaching pressure on the remaining wild population which will be impossible to contain.

The time has come for the Minister to take a pragmatic decision for the long term benefit of Rhinos in the wild, for South African tourism and for the rural communities whose livelihoods depend on the wildlife economy of banning outright all trade forever in all Rhino horn and ivory (and indeed lion and leopards).

In the light of the evidence, we urge the DEFF to entrench the ban on any trade in Rhino horn both domestically and internationally. We also urge it to be bold in communicating a single, unambiguous message to the world: that it will not countenance any change in this policy. There would be no more effective way to communicate this message and effectively eliminate any speculation in the market regarding future sales, for it to publicly destroy its available Rhino horn stockpile.

