



March 20, 2023

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Public Comments Processing  
Attn: FWS-HQ-IA-2021-0099  
U.S. Fish and Wildlife Service  
MS: PRB/3W  
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Falls Church, Virginia 22041-3803

**Re: Safari Club International Comments on Proposed Rule, Revision to the Section 4(d) Rule for the African Elephant, 87 Fed. Reg. 68975 (Nov. 17, 2022), Docket No. FWS-HQ-IA-2021-0099**

Dear Dr. Cogliano,

Safari Club International (“SCI”) respectfully requests that the U.S. Fish and Wildlife Service (“Service”) withdraw the proposed revisions to the special rule for the import of sport-hunted African elephant trophies, 50 C.F.R. § 17.40(e)(6) (“4(d) Rule”). For many reasons, including those explained below, the proposed rule should be withdrawn. Perhaps most importantly, these revisions will not resolve any conservation concern, but will only reduce the funding and incentives available to African range states to conserve elephants.

Over 81% of the world’s elephants inhabit the seven countries where they are hunted and from which they are exported. These countries should be lauded for their many constructive efforts—especially compared to the rest of elephant range, where elephant populations are declining or depressed. U.S. hunters play an important role in funding the conservation of wildlife in the seven countries from which elephants are exported. The Service should not make imports any more difficult than they already are. Rather, it should do everything in its power to ensure that imports continue and that hunting continues to benefit elephants and other species.

Not only should the Service not adopt this proposed rule, but doing so is a violation of the Endangered Species Act (“ESA”). Under the ESA, the Service is only permitted to adopt regulations that are “necessary and advisable” for the conservation of threatened-listed species like elephant. 16 U.S.C. § 1533(d). The proposal is neither necessary nor advisable. It is not necessary because of the low volume of trade in elephant hunting trophies, and the demonstrated benefits to elephants from hunting conservation programs. It is not advisable because it will reduce these demonstrated benefits and ultimately, harm the conservation of elephants. Further, not only is the proposed rule unnecessary and inadvisable, but it is a direct affront to the oft-expressed desires and sovereignty of the impacted range nations.

## **Safari Club International**

SCI, a nonprofit IRC § 501(c)(4) corporation, has approximately 50,000 members and advocates worldwide. Its missions include the conservation of wildlife, protection of the hunter, and education of the public concerning hunting and its use as a conservation tool. SCI members frequently hunt elephant in southern Africa, and seek to import trophy mementoes of these hunts back to the U.S. These members contribute millions of dollars per year to the wildlife management budgets and Gross Domestic Products of the countries which rely on elephant hunting as part of their conservation programs. SCI also works closely with African range countries and community organizations to, among other things, promote sustainable use hunting and demonstrate its benefits in various fora around the world. SCI's sister organization, SCI Foundation, also contributes funding to, and directly participates in, wildlife conservation and research projects around the world, including southern Africa. SCI Foundation hosts an annual "African Wildlife Consultative Forum" to bring together range states, rural and local community organizations, outfitter associations, and other stakeholders to discuss important issues related to conservation, wildlife management, and hunting. The Service is a regular participant at this Forum.

### **The proposed rule should be withdrawn because the Service failed to consult meaningfully with range states.**

SCI requests that the Service withdraw the current proposal and comply with its obligation to consult meaningfully with impacted sovereign range states before proposing any stricter domestic measure. Consultation is an essential part of the Service's obligations under the ESA and the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"). CITES Res. Conf. 6.7 encourages an importing state to "make every reasonable effort" to consult with affected range states before adopting any stricter domestic measures, like the proposed rule. The Service must make every reasonable effort to engage the range states in southern Africa in meaningful consultation regarding their conservation programs and any alleged need to revise the 4(d) Rule.

The process and procedure that the Service used to promulgate this proposed rule does not represent meaningful consultation or comply with CITES Res. Conf. 6.7. And although CITES resolutions are non-binding, the Service regularly treats certain CITES resolutions as binding. In fact, the Environmental Assessment ("EA") prepared along with the proposed rule spends multiple pages discussing CITES resolutions and non-binding guidance for live trade in elephants and for the National Legislation Project. The Service should acknowledge and support all the CITES processes regarding regulation of importation of foreign wildlife, including Res. Conf. 6.7.

Service staff attended SCI Foundation's African Wildlife Consultative Forum in October 2022, only a few weeks before the proposed rule was published in the Federal Register. Ten African elephant range states also attended that meeting, and yet the Service did not raise these issues even once to initiate consultation with the range state representatives prior to publication of the proposed rule. The Service also did not take full advantage of the consultation opportunities

presented during the Nineteenth Conference of the Parties to CITES, held in mid/late November, which could have facilitated robust discussions prior to publication of the proposed rule.

To their credit, Service staff did attend SCI's annual Convention in February 2023, during which they met with southern African range state representatives. However, these meetings were insufficient for fulsome consultation, and certainly did not comply with CITES Res. Conf. 6.7. First, these meetings occurred after publication of the proposed rule, after the Service's decision was announced and likely mostly finalized. It simply is not enough for the Service to treat sovereign range states like any other public commenter and accept feedback *after* the proposed rule is published. No other stakeholder has as much to lose as the range states and rural and local communities that will be impacted by the proposed rule. Consultation should have occurred *prior* to formulation of the proposed rule, let alone publication of it. And the Service should have made *every reasonable effort* to travel to relevant range states to learn first-hand about their conservation programs.

Second, the Service did not meet with all impacted range states. Notably, Botswana, the range state with the largest elephant population in the world, was unable to send representatives to SCI's Convention. Perhaps more than any other range state, Botswana will be directly impacted by adoption of the proposed rule. To SCI's knowledge, the Service still has not engaged in direct consultation with Botswana, despite the importance of this issue and the fact that the proposal will likely shut down all elephant trophy imports from this country. The Service's oversight is not only inexcusable—a clear disregard of Botswana's acknowledged successes and sovereignty—but a violation of the ESA.

### **The proposed rule will harm conservation of elephants and other species in southern Africa.**

Regulated hunting generates significant benefits, with low environmental impact. The seven countries where elephants are hunted and exported to the U.S. sustain *over 81%* of the global elephant population. The four countries which export almost 90% of all elephant trophies conserve over 60% of the world's elephants. A table showing the elephant populations of these countries and the regulated hunting offtakes is included at the end of this comment.

Normally, when a community has achieved some impressive metric—a school district with high test scores, a town with high incomes—we admire this success and try to replicate it. Instead, through increased regulation, the Service will reduce the benefits of hunting and ultimately, harm elephant conservation.

The proposed rule disingenuously plays down its detrimental impact to these successful conservation programs.<sup>1</sup> It purports to “clarify” how the Service analyzes the “enhancement” provision in 50 C.F.R. § 17.40(e) by requiring that range states certify, on an annual basis, a number of specific points—none of which have been required previously. The Service has

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<sup>1</sup> C. Semcer, Testimony before the House Natural Resources Committee (July 18, 2019), [https://www.perc.org/2019/07/18/the-role-of-hunting-in-conserving-african-wildlife/#\\_ftnref20](https://www.perc.org/2019/07/18/the-role-of-hunting-in-conserving-african-wildlife/#_ftnref20).

defined “enhancement” for elephant imports based on the benefit to the species: did hunting help support anti-poaching? Did it help improve community livelihoods? Now the Service is micro-managing how the range states monitor their elephant populations, protect their habitat, and spend their conservation dollars. There is no reason for the Service to do this, when it has already been repeatedly demonstrated—by the range states, community organizations, and ample scientific research—that hunting generates significant benefits.

***Habitat:*** The primary threat facing elephants—and almost all species—is loss of habitat. Hunting justifies the preservation of large tracts of intact habitat. Hunting areas protect far more land than national parks in the relevant range states, from 1.5 times as much land to more than five times as much land. A table showing the size of hunting areas versus national parks, as well as elephant population estimates, is included at the end of this comment. Hunting areas also conserve far more habitat than national parks in popular photo-tourist destination countries that do not permit hunting, such as Kenya.<sup>2</sup>

A 2007 study found that hunting areas protected over 22% more habitat than national parks,<sup>3</sup> but that figure does not account for the growth of communal conservancies, private ranches, and trans-frontier conservation areas (“TFCAs”) since 2007. For example, 50 communal conservancies in Namibia protected 118,000 km<sup>2</sup> in 2007. As of the end of 2021 (in the middle of the international Covid-19 pandemic), in Namibia alone, 86 conservancies protected over 180,000 km<sup>2</sup>.<sup>4</sup> Communal lands are of special importance, with the majority of elephant range in southern Africa on communal lands, outside strictly protected national park boundaries.<sup>5</sup> The incentives from hunting (such as revenues, infrastructure projects, employment, and meat) help maintain this land as habitat and prevent its conversion to crops, livestock grazing, and other human purposes.<sup>6</sup>

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<sup>2</sup> For reference, Kenya is approximately two-thirds the size of Tanzania, but its elephant range is less than one-third the size of Tanzania’s elephant range, and its elephant population is less than half as large as Tanzania’s. African Elephant Specialist Group, Elephant Database, <https://africanelephantdatabase.org/>. “[W]ildlife numbers outside parks have declined in Kenya since it banned hunting.” R. Emslie et al., Prince William Is Talking Sense—Trophy Hunting Is Crucial to Conservation, *The Independent* (Mar. 18, 2016), <https://www.independent.co.uk/voices/comment/prince-william-is-talking-sense-trophy-hunting-is-crucial-to-conservation-a6940506.html>.

<sup>3</sup> P. Lindsey et al., Economic and Conservation Significance of the Trophy Hunting Industry in Sub-Saharan Africa, *134 Biological Conservation* 455-469 (2007), <https://www.perc.org/wp-content/uploads/2015/08/Economic-and-conservation-significance.pdf>.

<sup>4</sup> Namibian Association of CBNRM Support Organisations, *State of Community Conservation in Namibia* (2021) (“State of Community Conservation in Namibia”), <http://www.nacso.org.na/resources/state-of-community-conservation>.

<sup>5</sup> C.R. Thouless et al., African Elephant Status Report 2016 (“Elephant Status Report”), p. 138, [https://portals.iucn.org/library/sites/library/files/documents/SSC-OP-060\\_D.pdf](https://portals.iucn.org/library/sites/library/files/documents/SSC-OP-060_D.pdf). Communal areas protect well over half a million square kilometers of habitat across southern Africa.

<sup>6</sup> R. Cooney et al., *The Baby and the Bathwater: Trophy Hunting, Conservation and Rural Livelihoods*, 68 *Unasylva* 249 (2017/1), <https://www.fao.org/3/i6855en/I6855EN.pdf>; A. Dickman, *Ending Trophy Hunting Could Actually Be Worse for Endangered Species*, *CNN* (Nov. 24, 2017),

Since 2007, TFCAs have formed to protect habitat across national borders. TFCAs connect parks, hunting areas, and communal and private lands to collaboratively manage natural resources across international borders, “for improved biodiversity conservation and socio-economic development.”<sup>7</sup> As one example, the Kavango-Zambezi TFCA is twice as large as the United Kingdom and encompasses crucial elephant range across Botswana, Namibia, Zimbabwe, and Zambia.<sup>8</sup> Over 81% of the world’s elephants inhabit southern Africa, and “nearly 75% of [these] occur as part of a single population in the Kavango Zambezi Transfrontier Conservation Area.”<sup>9</sup>

**Anti-Poaching and Conservation Revenues:** Hunting raises substantial revenue from concession leases, trophy fees, conservation fees, taxes, and other charges levied by national and local governments and landholders. Prior to trophy import restrictions imposed by the U.S. and other western countries, elephant hunting was the highest or among the highest sources of hunting revenue.<sup>10</sup> A large percentage of this revenue is used for law enforcement and anti-poaching by national wildlife authorities.<sup>11</sup> For example, in Zimbabwe in 2014, hunting revenue funded one-quarter of the wildlife authority’s budget, and over 60% of this revenue was dedicated to anti-poaching efforts.<sup>12</sup>

Further, hunting operators frequently run their own anti-poaching patrols, which reduce the national government’s law enforcement burden and expand the “boots on the ground”.<sup>13</sup> It is not

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<https://www.cnn.com/2017/11/24/opinions/trophy-hunting-decline-of-species-opinion-dickman/index.html>.

<sup>7</sup> SADC, Transfrontier Conservation Areas, Website, <https://www.sadc.int/themes/natural-resources/transfrontier-conservation-areas/>.

<sup>8</sup> Kavango-Zambezi TFCA, Website, <https://www.kavangozambezi.org/en/>.

<sup>9</sup> Elephant Status Report, p. 138.

<sup>10</sup> P.A. Lindsey et al., The Significance of African Lions for the Financial Viability of Trophy Hunting and the Maintenance of Wild Land, PLoS ONE 7(1) (2012), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0029332>.

<sup>11</sup> E.g., Zimbabwe Parks and Wildlife Management Authority, Zimbabwe National Elephant Management Plan (2021-2025) (“Zimbabwe Elephant Plan”), pp. 11, 12, 14 (“Financial resources deployed in the management and general conservation of elephant during the years 2016 to 2019, averaged approximately \$5.6 million per year or about \$90.00 per km<sup>2</sup> excluding administrative costs.”); I.R. Nkuwi, Conservation Status and Related Impacts of Elephants and Lion Trophy Ban to Tanzania, Presented During International Wildlife Conservation Council (Sept. 2018) (“Conservation Status of Elephant and Lion in Tanzania”).

<sup>12</sup> The Service has this information in its possession in non-detriment and enhancement findings and responses to Service questionnaires provided by the Zimbabwe Parks and Wildlife Management Authority; *see also* Showcasing Implementation of Zimbabwe’s National Elephant Management Plan (2015-2020) and Its National Action Plan, CoP18 Inf. 32 (2019), <https://cites.org/sites/default/files/eng/cop/18/inf/E-CoP18-Inf-032.pdf>.

<sup>13</sup> Zimbabwe Elephant Plan, p. 12 (“The presence of regulated hunting can also reduce illegal activities. Many hunting operators in Zimbabwe have specialised anti-poaching units. Private operators’ lease

uncommon for hunting operators to spend \$70,000 to \$100,000 a year (or more) on anti-poaching (as the Service is well aware, from the anti-poaching expenditure information provided in the Form 3-200-20 operator enhancement questionnaire).

In the same vein, community game scouts, employed using revenues from safari hunting, extend poaching control into communal areas. For example, there are over 750 community game scouts in Zambia, funded by hunting revenues.<sup>14</sup> Similarly, from 2010 to 2015, rural district councils in Zimbabwe spent \$1.77 million on law enforcement activities in CAMPFIRE areas.<sup>15</sup>

These efforts are working—far better in hunting areas than in other parts of Africa, in which hunting is not part of the conservation regime. One key indicator of the level of elephant poaching, the Proportion of Illegally Killed Elephant (“PIKE”), shows both a consistent downward trend in elephant poaching in southern and eastern Africa, and that poaching is well below the “unsustainable” threshold.<sup>16</sup> On the other hand, the PIKE in central and western Africa is considerably higher and above the “unsustainable” threshold. Faced with these metrics of success, it is difficult to understand why the Service is seeking to impose additional regulatory barriers that will reduce the benefits of hunting.

Hunting revenue is crucial to the operating budgets of range state wildlife authorities. For example, Tanzania has repeatedly informed the Service that, prior to the suspension of elephant trophy imports, approximately 80% of the wildlife authority budget came from hunting fees.<sup>17</sup>

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agreements include anti-poaching as an obligation of the concessionaire.”); Conservation Status of Elephant and Lion in Tanzania.

<sup>14</sup> The Service has this information in its possession in non-detriment and enhancement findings and responses to Service questionnaires provided by Zambia’s Department of National Parks and Wildlife.

<sup>15</sup> The Service has this information in its possession in non-detriment and enhancement findings and responses to Service questionnaires provided by Zambia’s Department of National Parks and Wildlife and the Zimbabwe Parks and Wildlife Management Authority.

<sup>16</sup> The CITES “Monitoring the Illegal Killing of Elephant” (“MIKE”) program collects data on elephant mortalities and causes of death, and evaluates relative poaching levels based on the PIKE, calculated as the number of illegally killed elephant divided by the total number of elephant carcasses observed. A PIKE value of 0.5 or above implies that more elephant died from illegal killing than any other causes. The 2022 MIKE report for eastern Africa shows “strong evidence for ... a downward trend [in poaching] from 2011 to 2021,” and that “[t]he trend [in poaching] in the last five years, from 2017 to 2021, is downward.” The PIKE for eastern Africa for 2021 was estimated at 0.28, which is well below the “unsustainable” threshold of 0.5 and well below the continental average of 0.40. CITES Secretariat, Report on Monitoring the Illegal Killing of Elephants (MIKE), CoP19 Doc. 66.5 (2021), ¶ 23. Likewise, “[i]n the last five years, from 2017 to 2021, there is strong evidence of a downward trend” in poaching in southern Africa, and the PIKE was estimated at 0.27, below the average continental PIKE estimate of 0.40.” *Id.* ¶ 25. Notably, the high PIKE of 0.70 in western Africa, where there is no regulated hunting, increased the continental estimate. But the low elephant population and small sample size means the reliability of this PIKE estimate has “a high level of uncertainty” *Id.* ¶¶ 26-27.

<sup>17</sup> The Service has this information in its possession in non-detriment and enhancement findings provided by Tanzania’s Ministry of Natural Resources and Tourism et al.; additional information is provided in: United Republic of Tanzania, Ministry of Natural Resources and Tourism, Report on Decision 17.114

Zimbabwe and Zambia have reported that between 25-40% (depending on the year) of their wildlife authority operating budgets come from hunting leases and fees.<sup>18</sup> As the Zimbabwe Parks and Wildlife Management Authority has explained:

Revenues from hunting are vital because there are not enough [non-hunting] tourists to otherwise generate income to support all protected areas. Eco-tourism revenues are typically sufficient to cover the costs of only some of the parks and certainly not to justify wildlife as a land use outside of protected areas. Hunting is able to generate revenues under a wider range of scenarios than eco-tourism, including in remote areas lacking infrastructure, attractive scenery, or high densities of viewable wildlife.<sup>19</sup>

Elephant hunting revenues also comprise a large part of the operating revenues for private and communal landholders. A model simulating a ban on hunting in Namibia found that over 80% of communal wildlife conservancies would be unable to cover their operating costs, putting that habitat at risk of conversion to other uses.<sup>20</sup>

**Livelihoods:** Hunting, especially elephant hunting, benefits the rural communities who live alongside elephants (and other species) and who are most impacted by this wildlife. Human-elephant conflict is a major issue in southern Africa. Communities are increasingly exposed to loss of crops, damage to water supplies and fences, and even physical harm to humans.<sup>21</sup> For

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regarding African Leopard (*Panthera pardus*) Quotas Established under Res. Conf. 10.14 (rev. CoP 16), CITES AC30 Doc. 15, Annex 4 (May 2018), <https://cites.org/sites/default/files/eng/com/ac/30/E-AC30-15-A4.pdf>; I.R. Nkuwi, Conservation Status and Related Impacts of Elephants and Lion Trophy Ban to Tanzania, Presented During International Wildlife Conservation Council (Sept. 2018) (“Conservation Status of Elephant and Lion in Tanzania”). Although this document is no longer available on the Service’s website, it should remain within the Service’s files.

<sup>18</sup> The Service has this information in its possession in non-detriment and enhancement findings provided by the Zimbabwe Parks and Wildlife Management Authority and the Zambia Department of National Parks and Wildlife.

<sup>19</sup> Zimbabwe Elephant Plan, p. 12; the Service also has information on this point in its possession in non-detriment and enhancement findings and responses to Service questionnaires provided by the Tanzania Wildlife Management Authority.

<sup>20</sup> R. Naidoo et al., Complementary Benefits of Tourism and Hunting to Communal Conservancies in Namibia, 30 Conservation Biology (Jan. 8, 2016) (“Complementary Benefits”), p. 632, <https://conbio.onlinelibrary.wiley.com/doi/pdf/10.1111/cobi.12643>. Notably, this study also concluded that removal of hunting derived revenues would have a far greater negative impact on communal conservancy funding than if photo-tourism revenues were removed.

<sup>21</sup> Botswana Department of Wildlife and National Parks, Botswana Elephant Management Plan and Action Plan (2021-2026), CoP19-Inf-102 (“Botswana Elephant Plan”), p. 15; CAMPFIRE Association, The Role of Trophy Hunting of Elephant in Support of the Zimbabwe CAMPFIRE Program (Dec. 2016) (“CAMPFIRE Role of Trophy Hunting”); CAMPFIRE Association, Press Statement on Lifting of the Suspension of Elephant Trophy Imports into America (Nov. 21, 2017) (“CAMPFIRE Press Statement”), <https://campfirezimbabwe.org/article/press-statement-21-november-2017>; N. Onishi, A Hunting Ban Saps a Village’s Livelihood, The New York Times (Sept. 12, 2015).

example, in the Zambezi and Erongo-Kunene regions of Namibia's communal conservancies, there was an average of 700 elephant conflict incidents reported between 2015-2019.<sup>22</sup> When hunting was suspended in Zambia (2012-2014), the wildlife authority received over 5,440 reports of crop or property damage and human injury caused by elephants.<sup>23</sup> In ten communal districts in Zimbabwe, an estimated 50 people were killed, and more than 7,000 hectares of crops were destroyed by elephants between 2010 and 2015. The financial losses of the crops were estimated to be as high as \$1 million.<sup>24</sup>

Hunting can help boost community tolerance for elephants through creating clear and direct benefits from wildlife. For example, in the national elephant management plan, the Zimbabwe Parks and Wildlife Management Authority explains,

When it is viewed as a valuable asset, wildlife becomes an economically competitive land use in Zimbabwe, which leads to habitat preservation instead of habitat destruction and conversion to agriculture or livestock production. Game animals have a survival advantage because of user-pay stewardship systems where use revenue generated from tourist hunters is paid through to wildlife authorities and local communities.<sup>25</sup>

Prior to the Service's suspension of elephant trophy imports from Zimbabwe in 2014, hunting revenues averaged \$2.2 million/year in CAMPFIRE Areas, and elephant hunting alone generated approximately \$1.6 million/year (~70% of the total on average).<sup>26</sup>

Opposing potential restrictions on trophy imports in the state of Connecticut, the Director of Zambia's Department of National Parks and Wildlife explained,

the benefits of regulated hunting are crucial to maintaining rural community support for growing populations of dangerous game such as elephants, lions, and leopards. ... [S]ome of Zambia's poorest communities bear the greatest impact of crop-raiding elephants ... But these communities tolerate the wildlife largely because they derive income, social services, and much-needed game meat from regulated hunting.<sup>27</sup>

Under Zambia law, at least half of all hunter harvested game meat must be shared with local communities, resulting in approximately 130,000 kg of fresh game meat provisioned each year to

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<sup>22</sup> State of Community Conservation in Namibia, pp. 63-64.

<sup>23</sup> The Service has this information in its possession in non-detriment and enhancement findings provided by the Zambia Department of National Parks and Wildlife.

<sup>24</sup> CAMPFIRE Press Statement.

<sup>25</sup> Zimbabwe Elephant Plan, p. 12.

<sup>26</sup> CAMPFIRE Role of Trophy Hunting; CAMPFIRE Press Statement.

<sup>27</sup> C. Simukonda, CT's Ban of 6 African Species Would Hurt, Not Save, Wildlife, Stamford Advocate (Apr. 19, 2021), Stamford Advocate, <https://www.stamfordadvocate.com/opinion/article/Opinion-CT-s-ban-of-6-African-species-would-16105621.php>.

local communities.<sup>28</sup>

Similarly, approximately 55% of the hunting revenues in Namibia's communal conservancies come from elephant hunts alone. The conservancies secure otherwise unprotected habitat across 180,000 km<sup>2</sup> and benefit 238,700 people.<sup>29</sup> Revenue from hunting is reinvested into badly needed rural infrastructure, like construction of clinics and schools, improvements in drinking water, building and improving roads, and much more.<sup>30</sup>

In addition, when rural communities live near hunting areas (common in some countries, less common in others), elephant hunting provides much-needed protein. Hunting operators and conservancies are also major sources of employment in the remote areas where hunting takes place.<sup>31</sup>

The Service is well aware of these benefits and of the negative impacts of import restrictions. Tanzania's wildlife authority has repeatedly informed the Service of the quantifiable negative impact of harvest restrictions.<sup>32</sup> Namibia's cabinet initiated a "ban on hunting bans."<sup>33</sup> Botswana's President took to international media to explain why Botswana was reopening hunting after a moratorium;<sup>34</sup> this is further explained in Botswana's national elephant management plan:

The hunting moratorium [in Botswana] resulted in ill-feeling in a number of communities and settlements, especially from members of the local population who regard hunting as a traditional way of life. Many local people were formerly reliant on controlled hunting for food, income and employment especially on marginal lands where elephant occur but where land that is not suitable and financially viable for photographic tourism and other economic options, such as agriculture is very limited. ... When hunting was suspended in 2014, many

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<sup>28</sup> P.A. White & J.L. Belant, Provisioning of Game Meat to Rural Communities as a Benefit of Sport Hunting in Zambia, *PLoS ONE* 10(2) (2015), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0117237>.

<sup>29</sup> Complementary Benefits, p. 635; State of Community Conservation in Namibia, p. 11.

<sup>30</sup> E.g., E. Koro, Significant Benefits: The Reason Why Hunting Will Not Stop in Africa Despite Foreign Opposition, *The Chronicle* (Feb. 22, 2023), <https://www.chronicle.co.zw/significant-benefits-the-reason-why-hunting-will-not-stop-in-africa-despite-foreign-opposition/>.

<sup>31</sup> R. Cooney et al., The Baby and the Bathwater: Trophy Hunting, Conservation and Rural Livelihoods, 68 *Unasylva* 249 (2017/1), <https://www.fao.org/3/i6855en/I6855EN.pdf>.

<sup>32</sup> E.g., Conservation Status of Elephant and Lion in Tanzania; non-detriment and enhancement findings and responses to Service questionnaires from the Tanzania Wildlife Management Authority/Wildlife Division/Ministry of Natural Resources and Tourism (in the Service's possession).

<sup>33</sup> E.g., A. Nakale, Trophy hunting ban will impact conservation, *New Era* (Namibia) (Feb. 21, 2020), <https://neweralive.na/posts/trophy-hunting-ban-will-impact-conservation>.

<sup>34</sup> H.E. M. Masisi, Hunting Elephants Will Help Them Survive, *Wall Street Journal* (June 19, 2019), <https://www.wsj.com/articles/hunting-elephants-will-help-them-survive-11560985152>.

community Trusts in northern Botswana experienced large declines in income.<sup>35</sup>

The proposed rule will not benefit elephant, because it will reduce the benefits of elephant hunting which, in turn, are essential to habitat protection, anti-poaching, and community support. For these reasons, SCI requests that the Service withdraw the proposed revision to the 4(d) Rule.<sup>36</sup>

### **The proposed rule runs counter to the intent of Congress in enacting the ESA.**

Over 60% of the world's elephant inhabit four countries: Botswana, Zimbabwe, South Africa, and Namibia. These countries also account for almost 90% of the trade in sport-hunted elephant trophies. As the Service knows, African elephants are listed as threatened under the ESA, and all four of these elephant populations are listed on Appendix II of CITES. Thus, Section 9(c)(2) of the ESA **presumes the legality of elephant trophy imports from these countries** because the elephants are listed as threatened, are on Appendix II, and the import is for non-commercial use. 16 U.S.C. § 1538(c)(2).

The proposal—and the Service's enhancement requirement in the first place—run contrary to Congress' intent in the ESA to facilitate the import of elephant hunting trophies from these countries. Rep. John Dingell, the architect of the ESA, stated the following in the ESA's legislative history:

H.R. 37 has been attacked by some as a[n] anti-hunter bill; it has been attacked by others as a prohunter bill. In reality, it is neither—it is a bill which has been carefully drafted to encourage State and foreign governments to develop healthy stocks of animals occurring naturally within their borders. If these animals are considered valuable as trophy animals, and are not endangered, they should be regarded as a potential source of revenue to the managing agency and they should be encouraged to develop to the maximum extent compatible with the ecosystem upon which they depend.

I have been informed by the Department of the Interior that they will carefully review the status of animal stocks in foreign countries and that **where nonendangered trophy animals are being managed in such a way as to assure their continued and healthy existence, no barriers will be placed upon the**

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<sup>35</sup> Botswana Elephant Plan, pp. 21, 23; see also E. Koro, Inside Botswana Communities' 21st Century International Hunting Windfall, Zimbabwe Independent (Mar. 15, 2023), <https://www.theindependent.co.zw/local-news/article/200008854/inside-botswana-communities-21st-century-international-hunting-windfall> (discussing benefits to Botswana communities from reopening of regulated hunting).

<sup>36</sup> Additional citations regarding the benefits of hunting and harm caused by import bans are included at the end of this letter. They collectively demonstrate that the Service's proposed rule will hinder elephant conservation efforts to the detriment of elephants and other wildlife, local communities, and the range states that successfully manage their wildlife.

**continued harvesting of those animals by the government.** This is as it should be, because it is only in the understanding that these animals have a real and measurable value that many of the less developed countries will agree to take steps to assure their continued existence. . . .<sup>37</sup>

Congress' express purpose was to **avoid** the placing of barriers on import of sport-hunted trophies from healthy wildlife populations, such as elephants in southern Africa. The proposed rule does the opposite and should be withdrawn.

The practical effect of the proposed revisions further demonstrates that the Service's proposal contravenes Congress' intent. Implementation of the proposed rule would irrationally impose stricter trade restrictions for the threatened-listed elephants than for endangered-listed species. Import of endangered-listed species is allowed with an ESA import permit. As the Service is aware, import of such species is not dependent upon annual certifications from range states—regardless of species—or designation as “Category One” under the CITES National Legislation Project (“NLP”). Although the Service asserts that the Secretary's authority to promulgate regulations related to threatened-listed species is effectively limitless, Congress surely did not intend that the Service would impose more stringent restrictions on threatened species than those Congress thought necessary for endangered species. Indeed, Section 4(d) states that the Service “may by regulation prohibit with respect to any threatened species any act prohibited . . . with respect to endangered species.” 16 U.S.C. § 1533(d). Congress did not intend for the Service to promulgate regulations that go above and beyond the restrictions placed on endangered species.

**The proposed certification requirement is unnecessary and unduly burdensome on the range states.**

The proposed rule attempts to solve problems that do not exist. There is no evidence that elephant populations are threatened by **legal** international trade in hunting trophies. As explained above, elephant populations are healthiest, largest, and most secure in southern Africa—undoubtedly, because of their hunting conservation programs and the benefits that justify the protection of habitat, fund law enforcement activities, and encourage rural and local community tolerance. The Service refers to “concerns” about the impact of trade in live elephants, but the proposed rule points to no similar “concerns” for the trade in hunting trophies.<sup>38</sup> In short, the Service provides **no substantive justification** for the proposed revisions that would require annual certification from range states.

The Service claims to be “clarifying” the enhancement standard for import. That simply is not true. The Service is imposing additional requirements on range states before the U.S. will allow

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<sup>37</sup> House Consideration and Passage of H.R. 37 with Amendments, U.S. Congressional Record (Sept. 18, 1973), p. 195 (emphasis added).

<sup>38</sup> Moreover, recent studies indicate that the commercial poaching of the mid-2010s has been diminished, and elephant populations are recovering. See, e.g., <https://newsroom.wcs.org/News-Releases/articleType/ArticleView/articleId/18185/Extensive-Wildlife-Survey-in-Tanzania-Confirms-Elephant-Recovery-in-Key-African-Wildlife-Stronghold.aspx>.

individual hunters to import. The proposed rule is not a clarification of an existing requirement, but a further restriction that, as explained above, does nothing to support conservation.

An annual certification to the United States is unnecessary (and therefore, not authorized by Section 4(d) of the ESA). The range states already make certifications through the CITES export permit process. CITES only allows a range state to issue an export permit when the activity is “not detrimental” to the survival of the species—meaning the hunting is at a level which is sustainable—and the offtake was legal.<sup>39</sup> Thus, range state export permits are *already* certifications of sustainability and legality. The range states also announce export quotas for elephants to the CITES Secretariat. Those quotas are published online and open to review by all CITES Parties, any of which could raise concerns or otherwise object to the quotas. This process is also a certification of the level of international trade which is not detrimental to the survival of the species.<sup>40</sup>

Second, the proposed certification requirement would impose a standard far greater than “enhancement.” Instead, the Service would essentially require range states to certify that their conservation programs “ensure” the survival of the species, rather than “enhance” it. The term “enhance” (or “enhancement”) is not defined in the ESA, ESA regulations, or in any CITES documents. The dictionary defines “enhance” as “heighten, increase; especially: to increase or improve in value, quality, desirability, or attractiveness.”<sup>41</sup> The certification is a departure from the Service’s previously stated standards for enhancement, a fact not stated within the proposed rule.

In 1992, the Service noted that importation of a sport-hunted elephant required “a determination that the killing of elephants for sport-hunting enhances the survival of the species by providing financial support programs for elephant conservation.” 57 Fed. Reg. 35473, 35485 (Aug. 10, 1992). In 1995, the Service stated that it “believes that when revenues are directed to management or enforcement activities or when there is long-term benefit to individuals or groups with proprietary interest in ensuring a viable elephant population, there is benefit to the survival of the elephant.” 60 Fed. Reg. 12969, 12970 (Mar. 9, 1995). And in 2015, the Service stated that its enhancement determination is made based on: “[1] if a country has sufficient numbers of elephants to support a hunting program, [2] if the country has a management plan and adequate laws and regulations to effectively implement a hunting program, and [3] if the participation of U.S. hunters in the program provides a clear benefit to the species...” *Safari Club Int’l v. Zinke*, 878 F.3d 316, 327 (D.C. Circ. 2017) (quoting the Service’s March 2015 negative enhancement finding for Zimbabwe elephants). The Service’s newly-proposed certification factors are clearly an unreasonable expansion of the previous factors the Service considered when determining enhancement.<sup>42</sup>

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<sup>39</sup> Article IV of the CITES Convention.

<sup>40</sup> Res. Conf. 14.7 and Res. Conf. 10.10.

<sup>41</sup> <https://www.merriam-webster.com/dictionary/enhance>.

<sup>42</sup> As set forth above, the Service has previously considered this clear benefit to include contributions to habitat protection, anti-poaching, and improvement of community livelihoods.

Further, the required certification is disconnected from the requested activity of importing a sport-hunted trophy. The current 4(d) Rule requires a finding “that the killing of the [elephant] will enhance the survival of the species.” 50 C.F.R. § 17.40(e)(6)(i)(B). Rather than focusing on whether ***hunting*** improves conservation outcomes within the range state, the Service would require range states to certify a number of broad “factors” that may or may not have anything to do with hunting in particular. For example, whether current viable elephant habitat is not decreasing or degrading may be wholly outside the control of the hunter and the hunting conservation program. Hunting does secure wildlife habitat, as reflected above, but it does not prevent the inescapable realities of climate change, drought, or continent-wide population growth that will surely continue to diminish “viable habitat” outside of hunting areas and national parks. Likewise, the question of whether “elephant populations in the range country are stable or increasing,” on the whole, is distinct from the question of whether the elephant populations are “sufficiently large to sustain sport hunting at the level authorized by the country,” and even more distinct from the question that should be asked: whether the elephant population from which the trophy was hunted is sufficiently large such that the hunting was not detrimental/sustainable.

Third, the required certification effectively imposes an unfunded mandate on sovereign nations. The Service requests that range state management authorities expend time and resources—which the Service knows are already limited due to existing trade restrictions—but provides no funding or other provisions to implement the annual certification. Such unfunded regulatory mandates are frowned upon in the United States. It is unnecessary and ill-advised for the Service to cause sovereign nations to expend valuable resources at its direction.

In effect, the Service is creating a wholly new and unduly burdensome requirement that (1) changes the standard for enhancement and is not simply a clarification of an existing requirement, (2) cannot be met by the individual hunters who submit import permit applications, and (3) may never be met by range states up to the Service’s unreasonably high standard. The proposal is not only unnecessary, but far from advisable—it may be impossible.

### **Aspects of the proposed certification requirement are unsuitable for southern Africa.**

In addition to being unnecessary and overly burdensome, the certification requirement ignores the realities of southern Africa and the elephant populations therein.

First, although elephants are listed as threatened across their range under the ESA, their distribution is not uniform. In the countries where elephants are hunted, they are not only abundant but, in some countries, ***overly*** abundant. Again, over 81% of the world’s elephants inhabit the seven countries that account for all trophy exports. In these countries, elephant are not considered threatened; in fact, they are sometimes not even specially protected but are treated as a wildlife resource which, through sustainable use, can generate conservation benefits. Ignoring these facts, the Service proposes to require certification that (1) elephant populations are stable or increasing, and (2) funding derived from sport hunting is applied specifically to elephant conservation. But the range states should be permitted to adaptively manage their

elephant populations and decrease them in certain instances.<sup>43</sup> Similarly, range states should be able to utilize funding from elephant hunts for other species of greater conservation concern. It makes little sense for the Service to require these two factors in instances where elephant populations are overly abundant.

Second, habitat is at risk across the world, including in the United States. As explained above, hunting secures habitat for wildlife, including elephants, but it is not a cure for all threats to habitat throughout each country. Climate change, human population growth, increased demand for other natural resources, and overregulation that disincentivizes conservation of habitat for the benefit of wildlife all work against the range states' ability to secure habitat for elephants. The United States faces similar stresses to habitat conservation, and the Service would not be able to make such a certification that wildlife habitat is not decreasing or degrading throughout the United States. The Service cannot credibly place impossible requirements on the range states.

Third, requiring that the range country has "sound data" on the elephant population is more than the Service requires of itself or U.S. states. Nevertheless, the relevant countries do monitor their elephant populations through a number of methods, and adaptively manage their elephants (and other species) as needed to protect overall biodiversity. Not only do these countries protect the world's largest populations of elephants, but also lions, leopards, rhinos, and many other species—all exemplars of the countries' respective conservation success. SCI requests that the Service withdraw the proposed revision and opt out of micro-managing these demonstrably successful wildlife conservation programs.

Fourth, requiring all range states to certify that 100% of the meat from sport-hunted elephants goes to rural communities would not be possible in areas where there are few to no communities. Many hunting areas, including much of South Africa, are not nearby villages to make the transfer of game meat viable. In areas where local communities are present, however, they benefit from sustainable use hunting programs, including the donation of the meat from harvested wildlife, including elephants.

Finally, the Service seeks public comments on "[h]ow to ensure an effective transfer of hunting revenues back into conservation of the species, including the kinds of regulations, infrastructure, or standard processes the range country of the hunt should have in place to ensure that hunting revenues add to and do not simply substitute for other existing funding for conservation." The Service gives no explanation for where this "other existing funding for conservation" would come, and this request for comment is hypocritical. In the United States, most of the funding for state wildlife conservation comes from hunting revenues, which is then matched with dollars from an excise tax on hunting, fishing, and shooting equipment. The Service is suggesting a requirement that elephant range states fund their conservation programs with dollars that even the U.S. states do not have. Hunting revenues do not "substitute" for other sources of funding; rather, they are often the only source of conservation revenue. Any suggestion that hunting removes otherwise available conservation funding is absurd.

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<sup>43</sup> Moreover, declining populations may be hunted, as long as hunting quotas are adjusted accordingly.

Generally, the proposed rule would require an illogical “one size fits all” certification to countries with different conservation models. These countries have different proportions of private, public, and communal land, different conservation funding models, and different conservation needs. Instead of imposing a certification that will be difficult for any or all of the range states to provide, the Service should support and reward the countries who have stood for decades against the tide of poaching, habitat loss, and decreasing wildlife numbers worldwide.

**The CITES National Legislation Project Category One requirement elevates form over substance.**

SCI supports U.S. efforts to assist other CITES Parties in achieving CITES NLP “Category One” status. But SCI vigorously opposes making elephant imports dependent upon achieving that status.<sup>44</sup> The Service has not explained why or how achieving “Category One” status will benefit elephant conservation. The reality is that “Category One” status has no conservation benefit whatsoever.

The NLP assesses whether a country has adopted laws which fully implement the CITES Convention, which governs international trade in fauna and flora. Thus, the NLP designations assess the country’s CITES implementation across-the-board, meaning for wildlife, fish, and plants. Some countries have not fully developed their regulations for every CITES species in every situation, but that does not mean these countries are not effectively implementing CITES to regulate trade in elephants. For example, all the range states have designated management and scientific authorities and issue CITES-compliant permits for trade in elephants.

Further, the NLP designations come from CITES Res. Conf. 8.4, which directs the Secretariat, “within available resources,” to assess the CITES Parties’ domestic measures. Updates to the NLP designations are therefore dependent on the Secretariat’s resources—which are always scarce and overtaxed. Such designations are not made in real time and may take years to be revised. Meanwhile, the Service’s “Category One” requirement will apply from the moment the proposed rule is finalized and effective. Waiting for CITES to catch up on updating the NLP designations jeopardizes necessary funds for important conservation programs.

The erroneous nature of this requirement is perhaps best demonstrated by comparing the list of “Category One” Parties to “Category Two” Parties. Some countries in west and central Africa, including those with dwindling elephant populations, are in “Category One.” Unremarkably, their designation in “Category One” has no direct causation or even correlation with successful elephant conservation. On the other hand, some countries in southern and eastern Africa that are among the most successful at elephant conservation (as demonstrated by the size of their elephant populations, their low incidence of poaching, and the support of their private and

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<sup>44</sup> The proposed rule notes that the Service has previously assisted Angola and Jordan in their efforts to implement CITES. Notably, neither country trades elephants and so would not be impacted by the proposed restrictions. If the Service truly believes that achievement of Category One status would benefit range state elephant conservation efforts, it should assist the relevant range states to achieve that objective, not diminish conservation funding through unwarranted trade restrictions.

communal stakeholders) are included in “Category Two.” The only logical conclusion when comparing these facts is that the NLP designation has no impact on elephant conservation within the individual range states.<sup>45</sup>

### **The proposal fails to take into account the Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government.**

On his first day in office, President Biden signed the Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (“Executive Order”). The Executive Order declares it the “policy of [the Biden] Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”<sup>46</sup> According to the Executive Order, “advancing equity requires a systematic approach to embedding fairness in decision-making processes.” Accordingly, it directs “each agency [to] assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups.” The Executive Order defines equity as “the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as ... persons of color; ... persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.” The Order defines “underserved communities” as “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life....”

The proposed rule contains no assessment of whether and to what extent it will perpetuate systemic barriers to opportunities and benefits to people of color and other underserved groups. Nor does it fairly treat the African range countries and the rural and local communities who benefit from regulated hunting. The Service failed to consult with these countries and communities prior to publishing the proposed rule.

Further, the Service has been warned by African range states and local communities that import restrictions are detrimental to their conservation programs and to improving rural livelihoods. The Service has been told, repeatedly, that these countries and communities are already successfully managing their wildlife—as shown by the fact that most of the world’s elephants live within the countries where they are hunted—and the Service should adopt fewer restrictions, not more. The Executive Order mandates that the Service consider the impact of its policies on the distribution of benefits to persons of color, rural communities, and underserved communities. The proposed rule not only ignores the Executive Order, but it ignores a petition by

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<sup>45</sup> In an effort to demonstrate a need for the proposed revisions, the Service cites to recent sales of live elephants from Namibia and Zimbabwe as the only specific example of trade that concerns the Service. Ironically, both Namibia and Zimbabwe are designated as Category One in the NLP. This requirement has no impact on those Parties, and the Service’s proposed requirement is arbitrary.

<sup>46</sup> <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

representatives of communities whose interests the Executive Order seeks to advance. On June 30, 2021, the CAMPFIRE Association, which represents Zimbabwe’s community-based conservation program, and the Ngamiland Council of Non-Governmental Organisations (“NCONGO”), which represents community organizations in the Ngamiland districts in Botswana, requested that the Service revise its regulations to reduce disproportionate negative impacts on communities of color and underserved indigenous and rural communities in Africa and other parts of the world.<sup>47</sup> The petition explained that current federal regulations do not account for the detrimental impact of listing foreign species and imposing import restrictions on the rural and local communities who benefit from sustainable use of wildlife. That petition suggested specific changes to better take into account community voices. It also sought to reduce import restrictions on hunting trophies.

SCI questions whether the proposed rule, which will reduce the benefits of regulated hunting to communities of color, rural communities, indigenous communities, and underserved communities in southern Africa, can comply with the Executive Order—particularly as representatives of these communities have spoken in opposition to the proposed rule and requested fewer import restrictions. For these reasons, **SCI requests an explanation of the Service’s analysis of how the proposed rule complies with the Executive Order in any final rule.**

#### **The Service did not fulfill its National Environmental Policy Act obligations.**

The Draft EA does not fulfill the Service’s legal obligations under the National Environmental Policy Act (“NEPA”). The Service failed to take a “hard look” at the environmental and economic impacts of the proposed rule. *Blue Mtns. Diversity Project v. Blackwood*, 161 F.3d 1208, 1211 (9th Cir. 1998). Indeed, the Service admits in the EA that it does not know the impact of the proposed rule. *E.g.*, Draft EA at 61–62. Moreover, the Service speculates that implementation of the NLP “Category One” requirement will drive hunters from hunting in certain range states to hunting in others, but the Service provides no analysis of the impact that shift will have on either set of range states. Draft EA at 52. SCI requests that the Service withdraw the proposed rule and associated draft EA, prepare an Environmental Impact Statement in compliance with NEPA, and fully analyze the impacts that these unnecessary revisions to the 4(d) Rule will have on relevant range states.

#### **Country-wide certifications should result in country-wide enhancement findings.**

If the Service requires country-wide certifications from range states, the 4(d) Rule should reflect that these certifications are sufficient for country-wide enhancement findings. As the Service recognizes, a case-by-case permitting approach is not required. The Service is permitted to conduct rulemaking—such as this one—to give itself the authority to make country-wide enhancement determinations. It is not bound legally to make enhancement findings on a permit-by-permit basis.

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<sup>47</sup> CAMPFIRE Association, Press Statement on Petition, <https://campfirezimbabwe.org/article/petition>.

Similar to the 4(d) rule for threatened-listed argali, the elephant 4(d) Rule should explicitly provide that annual certification from a range state results in country-wide enhancement findings for the importation of sport-hunted elephants from that country.<sup>48</sup> If the Service truly intends to provide clarity regarding enhancement, alleviate its backlog of import permit applications, and use its regulatory authority to benefit elephant conservation, it should—at an absolute minimum—promulgate revisions to the 4(d) Rule that would allow for positive country-wide enhancement findings.

**Any revisions to the 4(d) Rule should only apply prospectively.**

If the Service ultimately adopts revisions to the 4(d) Rule, any new requirements for the importation of elephants should only apply to import applications received after the effective date of the new Rule. As the Service is aware, many hunters have been waiting years for decisions from the Service on their elephant import permit applications. Those hunters should not be held to standards that did not exist at the time of their hunts and applications. In addition to general notions of fairness and equity, prospective application of any new rule is consistent with judicial opinions regarding the difference between rules and adjudications. *See, e.g., Safari Club Int'l v. Zinke*, 878 F.3d 316, 332–34 (D.C. Cir. 2017) (“[R]ules generally have only ‘future effect’ while adjudications immediately bind parties by retroactively applying law to their past actions.”). Thus, if the Service adopts new requirements for imports, those requirements should apply only to applications received after the effective date of the new Rule.

**Conclusion**

For all the reasons explained above, the Service should withdraw the proposed revisions to the 4(d) Rule. The Service should endeavor to work with elephant range states to implement effective conservation policy, not hamstring successful conservation programs with unnecessary and irrational regulation. If you have any questions, please contact Regina Lennox, [rlennox@safariclub.org](mailto:rlennox@safariclub.org), or Jeremy Clare, [jclare@safariclub.org](mailto:jclare@safariclub.org).

Sincerely,



Sven Lindquist  
President, Safari Club International

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<sup>48</sup> The argali rule is different in other, obvious aspects. SCI encourages the Service to actually utilize the provisions of the argali rule and provide notice in the Federal Register that imports from Kyrgyzstan, Mongolia, and Tajikistan are permitted without an ESA import permit. 50 C.F.R. 17.40(j)(2).

**Exhibit A**

Country	Est. Elephant Range (km <sup>2</sup> )	Est. Elephant Pop.	% of Est. Continental Elephant Pop.	Est. Size of Hunting Areas (km <sup>2</sup> )	Size of National Parks (km <sup>2</sup> )
Botswana	228,073	131,626	31.7	Not Available	Not Available
Mozambique	320,402	10,884	2.6	131,425	87,806
Namibia	164,069	22,754	5.5	Not Available	Not Available
South Africa	30,651	18,841	4.5	>210,000	37,511
Tanzania	389,921	50,433	12.1	304,400	57,838
Zambia	170,466	21,967	5.3	179,904	~64,000
Zimbabwe	81,228	82,630	19.9	~88,000	~28,000
<b>Total</b>	<b>1,384,810</b>	<b>339,095</b>	<b>81.6</b>	--	--
*** Kenya	130,725	22,809	5.5	N/A	~29,400

Sources: C.R. Thouless et al., African Elephant Status Report (2016) (estimating a continental elephant population of 415,428); IUCN, WCMC, and UNEP, ProtectPlanet.net (world database of protected places), <http://www.protectedplanet.net>.

Note: In Namibia, some limited hunting takes place in National Parks.

**Exhibit B**

Country	Est. Elephant Population	CITES Export Quota (2022)	Avg. Hunting Offtakes
Botswana	131,626	400	2021-22: 196
Mozambique	10,844	33	--
Namibia	22,754	90	2016-19: 48
South Africa	18,841	150	2013-17: 76
Tanzania	50,433	50	2016-21: 4
Zambia	21,967	80	2016-22: 15
Zimbabwe	82,630	500	2016-22: 173
<b>TOTAL</b>	<b>339,095</b>	<b>1,303 (0.3% Pop.)</b>	--

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- Open letter: Stop the hypocrisy – a call for the genuine inclusion of African communities in decisions about our wildlife, <https://communityleadersnetwork.org/wp-content/uploads/2022/11/Open-letter-US-UK-EU-legislation.pdf>
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